

LEGISLATIVE ASSEMBLY
OF ONTARIO

FIRST SESSION
THIRTY-FOURTH PARLIAMENT

BILLS
AS ENACTED

SESSION

November 3rd, 1987 to January 7th, 1988

February 8th to February 11th, 1988

April 5th to June 29th, 1988

and

October 17th, 1988 to March 2nd, 1989

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Bill 1

(Chapter 17
Statutes of Ontario, 1988)

An Act respecting Conflicts of Interest of Members of the Assembly and the Executive Council

The Hon. I. Scott
Attorney General

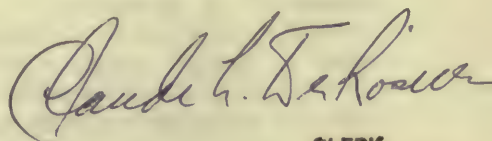
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Projet de loi 1

(Chapitre 17
Loi de l'Ontario de 1988)

Loi concernant les conflits d'intérêts des membres de l'Assemblée et du Conseil des ministres

L'honorable I. Scott
procureur général



CLERK
LEGISLATIVE ASSEMBLY

<i>1^{re} lecture</i>	3 novembre 1987
<i>2^e lecture</i>	2 décembre 1987
<i>3^e lecture</i>	9 février 1988
<i>sanction royale</i>	11 février 1988

Bill 1**1987**

**An Act respecting Conflicts of
Interest of Members of the Assembly
and the Executive Council**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions**1. In this Act,****"enfant"**

"child" includes a person whom a member has demonstrated a settled intention to treat as a child of his or her family, except under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody;

"membre"

"member" means a member of the Legislative Assembly or of the Executive Council, or both;

Projet de loi 1

1987

**Loi concernant les conflits d'intérêts
des membres de l'Assemblée
et du Conseil des ministres**

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«conjoint» Conjoint du membre au sens de la partie III de la *Loi de 1986 sur le droit de la famille*, à l'exclusion toutefois de la personne avec qui le membre est marié s'ils ont conclu un accord de séparation ou si leurs obligations alimentaires et leurs biens familiaux ont fait l'objet d'une ordonnance. «spouse» 1986, chap. 4

«enfant» S'entend en outre de la personne dont le membre a manifesté l'intention bien arrêtée de la traiter comme s'il s'agissait d'un enfant de sa famille, sauf si cette personne est placée, contre valeur, dans un foyer d'accueil par celui qui en a la garde légitime. «child»

"intérêt
personnel"

"private interest" does not include an interest in a decision,

- (a) that is of general public application,
- (b) that affects a member as one of a broad class of electors, or
- (c) that concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly;

"conjoint"
1986, c. 4

"spouse" means a person who is the member's spouse within the meaning of Part III of the *Family Law Act, 1986*, but does not include a person to whom the member is married if they have made a separation agreement or if their support obligations and family property have been dealt with by a court order.

Conflict of
interest

2. For the purposes of this Act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest.

Insider
information

3. A member shall not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

Influence

4. A member shall not use his or her office to seek to influence a decision made by another person to further the member's private interest.

Activities on
behalf of
constituents

5. This Act does not prohibit the activities in which members normally engage on behalf of constituents.

Accepting
extra benefits

6.—(1) A member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

Exception

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

Disclosure

(3) Where a gift or personal benefit referred to in subsection (2) exceeds \$200 in value, or where the total value

«intérêt personnel» Ne comprend pas un intérêt dans une décision qui, selon le cas : «private interest»

- a) est d'application publique en général;
- b) concerne un membre en sa qualité de membre d'une vaste catégorie d'électeurs;
- c) concerne la rémunération et les avantages d'un membre, d'un fonctionnaire ou d'un employé de l'Assemblée législative.

«membre» Membre de l'Assemblée législative ou du Conseil des ministres, ou des deux. «member»

2 Pour l'application de la présente loi, le membre a un conflit d'intérêts lorsqu'il prend une décision ou participe à celle-ci dans l'exécution de ses fonctions et qu'il sait, en prenant cette décision, qu'existe la possibilité de favoriser ses intérêts personnels. Conflit d'intérêts

3 Le membre n'utilise pas les renseignements qu'il obtient dans l'exercice de ses fonctions et qui ne sont pas accessibles au public en général, afin de favoriser ou de chercher à favoriser ses intérêts personnels. Renseignements d'initiés

4 Le membre ne fait pas usage de ses fonctions afin de chercher à influencer une décision prise par une autre personne, dans le dessein de favoriser ses intérêts personnels. Influence

5 La présente loi n'interdit pas les activités qu'exercent normalement les membres pour le compte des électeurs. Activités exercées pour le compte d'électeurs

6 (1) Sauf dans le cas d'une indemnisation qu'autorise la loi, le membre n'accepte pas d'honoraires, de dons ni d'avantages personnels qui sont liés, directement ou indirectement, à l'exercice des devoirs de ses fonctions. Acceptation d'avantages supplémentaires

(2) Le paragraphe (1) ne s'applique pas à un don ou à un avantage personnel qui est reçu dans le cadre du protocole ou d'obligations sociales qui accompagnent habituellement les charges de la fonction. Exception

(3) Si le don ou l'avantage personnel visé au paragraphe (2) a une valeur supérieure à 200 \$, ou si la valeur totale reçue, directement ou indirectement, d'une source au cours d'une période de douze mois est supérieure à 200 \$, le membre dépose immédiatement auprès du Commissaire un état de divulgation dans la forme prescrite par les règlements, qui Divulgateion

received directly or indirectly from one source in any twelve-month period exceeds \$200, the member shall immediately file with the Commissioner a disclosure statement, in the form prescribed by the regulations, indicating the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.

Former
members of
Executive
Council,
benefits and
lobbying

7.—(1) The Executive Council, a member of the Executive Council or an employee of a ministry (other than an employee of an agency, board or commission) shall not knowingly,

- (a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council, until twelve months have expired after the date when the former member ceased to hold office;
- (b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council who has, during the twelve months after the date when he or she ceased to hold office, made representations in respect of the contract or benefit;
- (c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council has, during the twelve months after the date when he or she ceased to hold office, made representations in respect of the contract or benefit.

Exception

(2) Clauses (1) (a) and (b) do not apply to contracts or benefits in respect of further duties in the service of the Crown.

Idem

(3) Clauses (1) (a), (b) and (c) do not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

Carrying on
business

8.—(1) A member of the Executive Council shall not,

- (a) engage in employment or in the practice of a profession;
- (b) carry on a business; or
- (c) hold an office or directorship other than in a social club, religious organization or political party,

except as required or permitted by the responsibilities of being a member of the Executive Council.

indique la nature du don ou de l'avantage, sa source et les circonstances dans lesquelles il a été remis et accepté.

7 (1) Le Conseil des ministres, l'un de ses membres ou un employé d'un ministère (à l'exclusion d'un employé d'un organisme, d'un conseil ou d'une commission) ne doit sciemment :

Avantages
offerts à
d'anciens
membres du
Conseil des
ministres

- a) accorder ni approuver un contrat en faveur d'un ancien membre du Conseil des ministres, ni lui accorder un avantage, tant que douze mois ne se sont pas écoulés à compter de la date où l'ancien membre a cessé d'exercer ses fonctions;
- b) accorder ni approuver un contrat, ni accorder un avantage en faveur d'un ancien membre du Conseil des ministres qui a fait des observations concernant ce contrat ou cet avantage pendant les douze mois qui suivent la date où l'ancien membre a cessé d'exercer ses fonctions;
- c) accorder ni approuver un contrat, ni accorder un avantage en faveur d'une personne pour le compte de laquelle un ancien membre du Conseil des ministres a fait des observations concernant ce contrat ou cet avantage pendant les douze mois qui suivent la date où l'ancien membre a cessé d'exercer ses fonctions.

(2) Les alinéas (1) a) et b) ne s'appliquent pas aux contrats et avantages concernant d'autres devoirs au service de la Couronne.

Exception

(3) Les alinéas (1) a), b) et c) ne s'appliquent pas si les conditions selon lesquelles le contrat ou l'avantage est accordé ou approuvé sont les mêmes pour toutes les personnes y ayant semblablement droit.

Idem

8 (1) À l'exclusion de ce qui est requis ou permis dans le cadre de ses responsabilités, le membre du Conseil des ministres ne doit pas :

Activités
commerciales

- a) exercer de profession ni d'emploi;
- b) exercer d'activités commerciales;
- c) occuper de poste ni ne faire partie d'un conseil d'administration, sauf dans un club social, une organisation religieuse ou un parti politique.

Time for
compliance

(2) A person who becomes a member of the Executive Council shall comply with subsection (1) before the sixty-first day that follows his or her appointment.

Idem

(3) The Commissioner may extend the period referred to in subsection (2) by giving the member a written notice to that effect, and may impose on the extension such conditions as the Commissioner considers just.

Trusts

(4) If a member of the Executive Council complies with clause (1) (b) by entrusting his or her business to one or more trustees,

- (a) the provisions of the trust shall be approved by the Commissioner;
- (b) the trustees shall be persons who are at arm's length with the member and approved by the Commissioner;
- (c) the trustees shall not consult with the member with respect to managing the trust property; and
- (d) the trustees shall report all material changes in assets, liabilities, and financial interests contained in the trust to the member and the Commissioner, in writing, forthwith after the changes have occurred.

Routine
personal
financial
interests

(5) For the purposes of this section, the management of routine personal financial interests does not constitute carrying on a business.

Procedure on
conflict of
interest

9.—(1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if present at a meeting considering the matter,

- (a) disclose the general nature of the conflict of interest; and
- (b) withdraw from the meeting without voting or participating in the consideration of the matter.

Idem

(2) A member of the Executive Council who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the member's decision shall request another member of the Executive Council to perform the

(2) La personne qui devient membre du Conseil des ministres se conforme au paragraphe (1) avant le soixante et unième jour qui suit sa nomination. Délai

(3) Le Commissaire peut proroger le délai visé au paragraphe (2) en donnant au membre un avis écrit à cet effet. Il peut assortir la prorogation des conditions qu'il estime justes. Idem

(4) Si un membre du Conseil des ministres se conforme à l'alinéa (1) b) en confiant ses activités commerciales à un ou plusieurs fiduciaires : Fiducies

- a) les dispositions de la fiducie sont approuvées par le Commissaire;
- b) les fiduciaires n'ont pas de lien de dépendance avec le membre et sont approuvés par le Commissaire;
- c) les fiduciaires ne doivent pas s'entretenir avec le membre de la gestion des biens en fiducie;
- d) les fiduciaires font rapport au membre et au Commissaire de tous les changements importants apportés à l'actif, au passif et aux intérêts financiers qui sont déposés en fiducie, par écrit et sans délai après que ces changements ont été faits.

(5) Pour l'application du présent article, la gestion d'intérêts financiers personnels d'ordre courant ne constitue pas des activités commerciales. Intérêts financiers personnels d'ordre courant

9 (1) Le membre qui a des motifs raisonnables de croire qu'il a un conflit d'intérêts dans une affaire qui est devant l'Assemblée, le Conseil des ministres ou un de leurs comités est tenu, s'il est présent à la réunion où l'affaire est étudiée : Procédure en cas de conflit d'intérêts

- a) de divulguer la nature générale du conflit d'intérêts;
- b) de se retirer de la réunion sans exercer son droit de vote ou sans participer à l'étude de l'affaire.

(2) Le membre du Conseil des ministres qui a des motifs raisonnables de croire qu'il a un conflit d'intérêts dans une affaire qui requiert sa décision, demande à un autre membre du Conseil d'exercer ses devoirs dans cette affaire en vue de Idem

member's duties in the matter for the purpose of making the decision and the member to whom it is referred may act in the matter for the period of time necessary for the purpose.

COMMISSIONER

Commissioner

10.—(1) There shall be a Commissioner who is an officer of the Assembly.

Appointment

(2) The Lieutenant Governor in Council shall appoint a person to the office of Commissioner on the address of the Assembly.

Term of office

(3) The person appointed shall hold office for a term of five years and may be reappointed for a further term or terms.

Removal

(4) The person appointed as Commissioner may be removed before the expiration of the term of office by the Lieutenant Governor in Council for cause on the address of the Assembly.

Salary

(5) The Commissioner shall be paid such remuneration and allowances as are fixed by the Lieutenant Governor in Council.

Staff

(6) The employees and officers that are necessary for the performance of the duties of the Commissioner shall be members of the staff of the Office of the Assembly.

Annual report

11. The Commissioner shall report annually upon the affairs of his or her office to the Speaker of the Assembly who shall cause the report to be laid before the Assembly.

DISCLOSURE

Disclosure statement

12.—(1) Every member shall, within sixty days of being elected, and thereafter annually, file with the Commissioner a disclosure statement in the form prescribed by the regulations.

Contents

(2) The disclosure statement shall contain,

(a) a statement of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private companies as defined in the *Securities Act* controlled by any of them;

R.S.O. 1980,
c. 466

(b) a statement of any income the member and the member's spouse and minor children, and private companies as defined in the *Securities Act* controlled by any of them, have received in the preced-

prendre la décision. Le membre à qui ces devoirs sont confiés peut les exercer pendant le laps de temps nécessaire à cette fin.

COMMISSAIRE

10 (1) Est créé un poste de Commissaire qui est un fonctionnaire de l'Assemblée. Commissaire

(2) Le lieutenant-gouverneur en conseil nomme une personne au poste de Commissaire sur adresse de l'Assemblée. Nomination

(3) La personne nommée exerce un mandat de cinq ans qui peut être renouvelé. Mandat

(4) Le lieutenant-gouverneur en conseil, sur adresse de l'Assemblée, peut révoquer la personne nommée en qualité de Commissaire avant l'expiration de son mandat, pour un motif valable. Révocation

(5) Le Commissaire reçoit la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil. Traitement

(6) Le personnel nécessaire à l'exécution des fonctions du Commissaire se compose des membres du personnel du bureau de l'Assemblée. Personnel

11 Chaque année, le Commissaire présente un rapport de ses travaux au président de l'Assemblée qui le fait déposer devant l'Assemblée. Rapport annuel

DIVULGATION

12 (1) Chaque membre, dans les soixante jours de son élection, et annuellement par la suite, dépose auprès du Commissaire un état de divulgation dans la forme prescrite par les règlements. État de divulgation

(2) L'état de divulgation comporte : Teneur

- a) un état de l'actif, du passif et des intérêts financiers du membre, de son conjoint et de ses enfants mineurs, ainsi que des compagnies privées au sens de la *Loi sur les valeurs mobilières* dont l'un quelconque d'entre eux a le contrôle; L.R.O. 1980, chap. 466
- b) un état de tout revenu que le membre, son conjoint, ses enfants mineurs, et les compagnies privées, au sens de la *Loi sur les valeurs mobilières*, dont l'un quelconque d'entre eux a le contrôle, ont reçu au

ing twelve months or are entitled to receive in the next twelve months and the source of the income; and

- (c) any other information that is prescribed by the regulations.

Meeting with
Commissioner

(3) After filing a disclosure statement, the member, and the member's spouse if the spouse is available, shall meet with the Commissioner to ensure that adequate disclosure has been made and to obtain advice on the member's obligations under this Act.

Affiliated
corporations

(4) If any asset, liability or financial interest described in the disclosure statement relates to a corporation, the Commissioner shall ascertain whether any other corporation is an affiliate of the first-named corporation, as determined under subsections 1 (2) to (6) of the *Securities Act*.

R.S.O. 1980,
c. 466

Idem

(5) If the Commissioner determines that there is an affiliate of the first-named corporation, he or she shall advise the member of the fact, in writing, and shall also mention the fact in the public disclosure statement prepared in accordance with section 13.

Public
disclosure
statement

13.—(1) After meeting with the member, and with the member's spouse if the spouse is available, the Commissioner shall prepare a public disclosure statement containing all relevant information provided by the member, and by the member's spouse if the spouse met with the Commissioner, in respect of the member, the spouse and minor children, except,

- (a) assets, liabilities and financial interests having a value of less than \$1,000;
- (b) the source of income where the income paid from the source has a value of less than \$1,000 in any twelve-month period;
- (c) the value of the assets, financial interests and liabilities of the member's spouse and minor children and of private companies as defined in the *Securities Act* controlled by the spouse or by a child;
- (d) the amount of income of the member's spouse or minor children or of a private company controlled by the spouse or a minor child where the income is

R.S.O. 1980,
c. 466

cours des douze mois précédents ou sont en droit de recevoir au cours des douze prochains mois, ainsi que l'indication de la source de ce revenu;

- c) tout autre renseignement prescrit par les règlements.

(3) Après avoir déposé un état de divulgation, le membre, et son conjoint si ce dernier est disponible, rencontrent le Commissaire afin de s'assurer que la divulgation a été satisfaisante, et d'obtenir des conseils concernant les obligations du membre en vertu de la présente loi.

Rencontre
avec le
Commissaire

(4) Si un élément d'actif ou du passif ou un intérêt financier décrit à l'état de divulgation concerne une compagnie, le Commissaire vérifie si une autre compagnie est membre du même groupe, au sens des paragraphes 1 (2) à (6) de la *Loi sur les valeurs mobilières*.

Compagnie
du même
groupe

(5) Si le Commissaire détermine qu'il existe un membre du même groupe que la première compagnie, il en avise le membre de l'Assemblée par écrit. Il mentionne également ce fait dans l'état de divulgation publique qu'il prépare conformément à l'article 13.

Idem

13 (1) Après avoir rencontré le membre, et son conjoint si ce dernier est disponible, le Commissaire établit un état de divulgation publique faisant état de tous les renseignements pertinents fournis par le membre, et par le conjoint si ce dernier a rencontré le Commissaire, concernant le membre, son conjoint et ses enfants mineurs, à l'exclusion de ce qui suit :

État de
divulgation
publique

- a) l'actif, le passif et les intérêts financiers dont la valeur est inférieure à 1 000 \$;
- b) la source de revenu, si ce revenu est inférieur à 1 000 \$ au cours d'une période de douze mois;
- c) la valeur de l'actif, du passif et des intérêts financiers du conjoint et des enfants mineurs du membre, ainsi que des compagnies privées au sens de la *Loi sur les valeurs mobilières* dont le conjoint ou un enfant a le contrôle;
- d) le montant du revenu du conjoint, des enfants mineurs du membre, ou d'une compagnie privée que contrôle le conjoint ou un enfant mineur, si ce

L.R.O. 1980,
chap. 466

paid from a source other than directly from a ministry or an agency, board or commission of the government;

- (e) the municipal address or legal description of real property that is primarily for the residential or recreational use of the member or the member's spouse or minor children;
- (f) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes;
- (g) the amount of cash on hand or on deposit with a chartered bank, trust company or other financial institution in Ontario that is lawfully entitled to accept deposits;
- (h) the amount of Canada Savings Bonds and other investments or securities of fixed value issued or guaranteed by any level of government in Canada or an agency of such government;
- (i) the value of registered retirement savings plans that are not self-administered;
- (j) the amount invested in open-ended mutual funds;
- (k) the value of guaranteed investment certificates or other similar financial instruments;
- (l) the value of annuities and life insurance policies;
- (m) the value of pension rights; and
- (n) the amount of the following liabilities:
 - 1. Mortgages and unpaid realty taxes on property referred to in clause (e).
 - 2. Liabilities related to assets referred to in clauses (f), (h), (i), (j), (k), (l) and (m).
 - 3. Unpaid income taxes.
 - 4. Support payments.

revenu provient d'une source autre que directement d'un ministère, d'un organisme, d'un conseil ou d'une commission du gouvernement;

- e) l'adresse municipale ou la description légale d'un bien immeuble utilisé essentiellement à des fins de résidence ou de loisir par le membre, son conjoint ou ses enfants mineurs;
- f) les biens meubles utilisés à des fins de transport, domestiques, éducatives, sociales, décoratives ou de loisirs;
- g) le montant de l'argent en caisse ou en dépôt dans une banque à charte, compagnie de fiducie ou autre institution financière en Ontario légitimement autorisée à accepter des dépôts;
- h) le montant d'obligations d'épargne du Canada et d'autres placements ou valeurs mobilières à valeur fixe, émis ou garantis par un palier de gouvernement au Canada ou l'un de ses organismes;
- i) la valeur des régimes enregistrés d'épargne-retraite qui ne sont pas autogérés;
- j) le montant investi dans des compagnies d'investissement à capital variable;
- k) la valeur des certificats de placement garantis ou d'autres effets financiers semblables;
- l) la valeur de rentes et de polices d'assurance-vie;
- m) la valeur des droits à une pension;
- n) le montant des éléments de passif qui suivent :
 - 1. Les hypothèques grevant les biens visés à l'alinéa e), et les impôts fonciers impayés sur ces biens.
 - 2. Les éléments de passif liés aux éléments d'actif visés aux alinéas f), h), i), j), k), l) et m).
 - 3. Les impôts sur le revenu impayés.
 - 4. Les aliments.

Exception

(2) The Commissioner may except from the public disclosure statement the source of income received by a member's spouse or minor child, or by a private company as defined in the *Securities Act* controlled by the spouse or child, in respect of services that are customarily provided on a confidential basis.

R.S.O. 1980,
c. 466

Idem

(3) The Commissioner may also except from the public disclosure statement the source of income received by a member's spouse or minor child, or by a private company as defined in the *Securities Act* controlled by the spouse or child, if the possibility of serious harm to the spouse's, child's or company's business justifies a departure from the general principle of public disclosure.

Content

(4) The public disclosure statement shall contain a statement of the nature of the assets referred to in clauses (1) (g) to (m) and the name and location of persons or institutions against whom the assets are held.

Idem

(5) The public disclosure statement shall contain a statement of any gifts or benefits that have been disclosed to the Commissioner under subsection 6 (3).

Filing

(6) The Commissioner shall, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who shall make it available for examination by the public.

Commissioner's
opinions and
advice

14.—(1) A member may, by application in writing, request that the Commissioner give an opinion and recommendations on any matter respecting the obligations of the member under this Act.

Inquiries

(2) The Commissioner may make such inquiries as the Commissioner considers appropriate and provide the member with a written opinion and recommendations.

Confidentiality

(3) The opinion and recommendations of the Commissioner are confidential, but may be released by the member or with the consent of the member in writing.

Commissioner's
opinion on
referred
question

15.—(1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the Commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

(2) Le Commissaire peut soustraire de l'état de divulgation publique la source du revenu qu'a reçu le conjoint du membre, son enfant mineur ou une compagnie privée au sens de la *Loi sur les valeurs mobilières* dont le conjoint ou l'enfant a le contrôle, en ce qui concerne des services habituellement fournis confidentiellement. Exception

L.R.O. 1980,
chap. 466

(3) Le Commissaire peut également soustraire de l'état de divulgation publique la source du revenu qu'a reçu le conjoint du membre, son enfant mineur ou une compagnie privée au sens de la *Loi sur les valeurs mobilières* dont le conjoint ou l'enfant a le contrôle, si la possibilité de causer un préjudice sérieux aux activités commerciales du conjoint ou de l'enfant ou aux activités de la compagnie justifie une dérogation au principe général de la divulgation publique. Idem

(4) L'état de divulgation publique comporte une déclaration de la nature des éléments d'actif visés aux alinéas (1) g) à m), ainsi que les noms et lieux de personnes ou d'établissements à l'égard desquels l'actif est détenu. Teneur

(5) L'état de divulgation publique comporte une déclaration des dons ou avantages qui ont été divulgués au Commissaire en vertu du paragraphe 6 (3). Idem

(6) Dès que cela est possible, le Commissaire dépose l'état de divulgation publique auprès du greffier de l'Assemblée législative qui le met à la disposition du public pour examen. Dépôt

14 (1) Un membre peut, sur demande écrite, demander que le Commissaire donne un avis et formule des recommandations sur une affaire qui a trait aux obligations du membre en vertu de la présente loi. Avis et
conseils du
Commissaire

(2) Le Commissaire peut faire les enquêtes qu'il estime pertinentes, et fournir au membre, par écrit, son avis et ses recommandations. Enquête

(3) L'avis et les recommandations du Commissaire sont confidentiels. Ils peuvent toutefois être communiqués par le membre ou avec le consentement écrit de celui-ci. Confiden-
tialité

15 (1) Un membre qui a des motifs raisonnables et probables de croire qu'un autre membre enfreint la présente loi peut, sur demande écrite qui énonce les motifs de sa conviction ainsi que la nature de l'infraction prétendue, demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par l'autre membre. Avis du
Commissaire
sur un renvoi

- Idem (2) The Legislative Assembly may, by resolution, request that the Commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act.
- Idem (3) The Executive Council may request that the Commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council with the provisions of this Act.
- Inquiry by Assembly (4) Where a matter has been referred to the Commissioner under subsection (1) or (2), the Legislative Assembly or a committee thereof shall not conduct an inquiry into the matter.
- Inquiry **16.**—(1) Upon receiving a request under section 15, and on giving the member concerned reasonable notice, the Commissioner may conduct an inquiry.
- Idem (2) Where the request for an opinion is made under subsection 15 (1) or (2), the Commissioner may elect to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*, in which case those Parts apply to the inquiry as if it were an inquiry under that Act.
- R.S.O. 1980, c. 411
- Report to Speaker (3) Where the request for an opinion is made under subsection 15 (1) or (2), the Commissioner shall report his or her opinion to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session.
- Report to Lieutenant Governor in Council (4) Where the request for an opinion is made under subsection 15 (3), the Commissioner shall report his or her opinion to the Clerk of the Executive Council.
- Penalties **17.**—(1) Where the Commissioner conducts an inquiry under Parts I and II of the *Public Inquiries Act* for the purposes of subsection 15 (1) or (2) and finds that the member has contravened section 3, 4, 6, 7, 8 or 9, or has refused to file a disclosure statement within the time provided by section 12, the Commissioner may recommend in the report that is laid before the Assembly,
- R.S.O. 1980, c. 411
- (a) that the member be reprimanded;
 - (b) that the member's seat be declared vacant until an election is held in the member's electoral district.

(2) L'Assemblée législative peut, par voie de résolution, demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par un membre. Idem

(3) Le Conseil des ministres peut demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par l'un de ses membres. Idem

(4) Si une affaire a été transmise au Commissaire en vertu du paragraphe (1) ou (2), l'Assemblée législative ou l'un de ses comités n'enquête pas sur cette affaire. Enquête par l'Assemblée

16 (1) Après avoir reçu une demande en vertu de l'article 15 et après avoir donné un avis suffisant au membre visé, le Commissaire peut faire une enquête. Enquête

(2) Si la demande d'avis est faite en vertu du paragraphe 15 (1) ou (2), le Commissaire peut choisir d'exercer les pouvoirs conférés à une commission par les parties I et II de la *Loi sur les enquêtes publiques*, auquel cas, elles s'appliquent à l'enquête de la même façon que s'il s'agissait d'une enquête en vertu de cette loi. Idem
L.R.O. 1980, chap. 411

(3) Si la demande d'avis est faite en vertu du paragraphe 15 (1) ou (2), le Commissaire présente un rapport de son avis au président qui le fait déposer devant l'Assemblée. Si celle-ci ne siège pas, il le dépose à la session suivante. Rapport au président de l'Assemblée

(4) Si la demande d'avis est faite en vertu du paragraphe 15 (3), le Commissaire fait rapport de son avis au greffier du Conseil des ministres. Rapport au lieutenant-gouverneur en conseil

17 (1) Si le Commissaire fait une enquête en vertu des parties I et II de la *Loi sur les enquêtes publiques* aux fins du paragraphe 15 (1) ou (2), et constate que le membre a contrevenu à l'article 3, 4, 6, 7, 8 ou 9, ou a refusé de déposer un état de divulgation dans le délai prévu à l'article 12, il peut recommander, dans le rapport déposé devant l'Assemblée :

- a) que le membre soit réprimandé;
- b) qu'il ait son siège déclaré vacant jusqu'à ce qu'une élection soit tenue dans la circonscription électorale du membre.

Pénalité
L.R.O. 1980, chap. 411

Time for
response

(2) The Assembly shall consider the Commissioner's report and respond to it as subsection (3) provides within six months of the day the report is laid before the Assembly.

Order of
Assembly

R.S.O. 1980,
c. 235

(3) The Assembly may order the imposition of the recommendation of the Commissioner under subsection (1) or may reject the recommendation, and sections 45 and 48 of the *Legislative Assembly Act* apply in the same manner as to a contempt of the Assembly, except the power to further inquire into the contravention or to impose a punishment other than the one recommended.

Offence

18.—(1) A former member of the Executive Council shall not, unless twelve months have expired after the date when he or she ceased to hold office,

- (a) accept a contract or benefit that is awarded, approved or granted by the Executive Council, a member of the Executive Council or an employee of a ministry (other than an employee of an agency, board or commission);
- (b) make representations on his or her own behalf with respect to such a contract or benefit;
- (c) make representations on another person's behalf with respect to such a contract or benefit.

Exception

(2) Clauses (1) (a) and (b) do not apply to contracts or benefits in respect of further duties in the service of the Crown.

Idem

(3) Clauses (1) (a), (b) and (c) do not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

Penalty

(4) A person who contravenes subsection (1) is guilty of an offence and liable, on conviction, to a fine of not more than \$5,000.

Regulations

19. The Commissioner may, subject to the approval of the Lieutenant Governor in Council, make regulations prescribing any matter that is referred to in this Act as prescribed by the regulations.

(2) Dans les six mois à compter du jour où le rapport du Commissaire est déposé devant l'Assemblée, celle-ci l'étudie et y répond selon ce que prévoit le paragraphe (3). Délai

(3) L'Assemblée peut ordonner l'imposition des mesures que recommande le Commissaire en vertu du paragraphe (1) ou rejeter ces recommandations. Les articles 45 et 48 de la *Loi sur l'Assemblée législative* s'appliquent de la même façon que dans le cas d'outrage à l'Assemblée, sauf qu'il n'est pas possible de pousser plus avant l'enquête relative à la contravention, ou d'imposer une sanction autre que celle qui est recommandée. Ordre de l'Assemblée
L.R.O. 1980, chap. 235

18 (1) À moins que douze mois ne se soient écoulés à compter de la date où il a cessé d'exercer ses fonctions, l'ancien membre du Conseil des ministres ne doit pas : Infraction

- a) accepter un contrat ni un avantage qui sont accordés ou approuvés par le Conseil des ministres, l'un de ses membres ou un employé d'un ministère (à l'exclusion d'un employé d'un organisme, d'un conseil ou d'une commission);
- b) faire des observations pour son propre compte concernant un tel contrat ou avantage;
- c) faire des observations pour le compte d'autrui concernant un tel contrat ou avantage.

(2) Les alinéas (1) a) et b) ne s'appliquent pas aux contrats et avantages concernant d'autres devoirs au service de la Couronne. Exception

(3) Les alinéas (1) a), b) et c) ne s'appliquent pas si les conditions selon lesquelles le contrat ou l'avantage est accordé ou approuvé sont les mêmes pour toutes les personnes y ayant semblablement droit. Idem

(4) La personne qui contrevient au paragraphe (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$. Peine

19 Sous réserve de l'approbation du lieutenant-gouverneur en conseil, le Commissaire peut, par règlement, prescrire une question mentionnée dans la présente loi comme étant prescrite par les règlements. Règlements

Commence-
ment

20.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Filing of
disclosure
statements

(2) Members who are in office when this Act comes into force shall file the disclosure statement required by section 12 within sixty days after this Act comes into force.

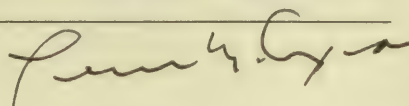
Short title

21. The short title of this Act is the *Members' Conflict of Interest Act, 1988*.

20 (1) La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

(2) Les membres en fonction lors de l'entrée en vigueur de la présente loi déposent l'état de divulgation requis par l'article 12 dans les soixante jours de l'entrée en vigueur de la présente loi. Dépôt des états de divulgation

21 Le titre abrégé de la présente loi est *Loi de 1988 sur les conflits d'intérêts des membres de l'Assemblée*. Titre abrégé

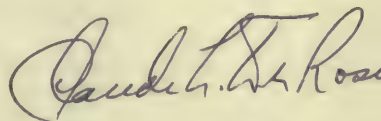


Bill 2

*(Chapter 18
Statutes of Ontario, 1988)*

An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates

The Hon. R. Nixon
Minister of Financial Institutions



**CLERK
LEGISLATIVE ASSEMBLY**

<i>1st Reading</i>	November 4th, 1987
<i>2nd Reading</i>	December 8th, 1987
<i>3rd Reading</i>	February 11th, 1988
<i>Royal Assent</i>	February 11th, 1988

Bill 2

1987

**An Act to establish the Ontario
Automobile Insurance Board and to provide
for the Review of Automobile Insurance Rates**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Definitions

“automobile insurance” has the same meaning as in section 1 of the *Insurance Act*, except that it does not include insurance for any motor vehicle or trailer that may be operated

R.S.O. 1980,
c. 218

R.S.O. 1980,
c. 198

legally on a highway without a permit issued under section 7 of the *Highway Traffic Act* other than a motorized snow vehicle;

“Board” means the Ontario Automobile Insurance Board established under this Act;

“industry-wide hearing” means an industry-wide hearing required or permitted by Part II;

“insurers’ association” means an association of insurers whose purpose it is to advise its members on rates or to maintain statistical information on behalf of its members or on behalf of the Superintendent;

R.S.O. 1980,
c. 218

“insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“Minister” means the Minister of Financial Institutions or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

“prescribed” means prescribed by the regulations;

“rate” means the amount payable under contracts of automobile insurance for an identified risk exposure whether expressed in dollar terms or in some other manner and includes commissions, surcharges, fees, discounts and rebates;

“regulations” means the regulations made under this Act;

“Superintendent” means the Superintendent of Insurance.

Facility
Association
R.S.O. 1980,
c. 83

(2) The Facility Association established under the *Compulsory Automobile Insurance Act* shall be deemed to be a person for the purposes of this Act and any proceeding before the Board or a court under this Act may be instituted by or against it in its own name.

PART I

ONTARIO AUTOMOBILE INSURANCE BOARD

Board
established

2. A board to be known as the Ontario Automobile Insurance Board is established.

3.—(1) The Board shall be composed of such number of members as the Lieutenant Governor in Council may appoint. Composition of Board

(2) The members of the Board shall be representative of insureds, the insurance industry and the public. Idem

(3) The members of the Board who are not Crown employees shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines. Remuneration and expenses

4.—(1) One-half of the members of the Board constitutes a quorum of the Board. Quorum

(2) One-half of the members of a panel of the Board constitutes a quorum of the panel. Idem

5.—(1) The Lieutenant Governor in Council shall appoint a member of the Board to be its chairperson and may appoint one or more other members as vice-chairpersons. Chairperson and vice-chairperson

(2) The chairperson shall assign members of the Board to its various sittings. Chairperson

(3) The vice-chairperson shall perform such duties as may be assigned to him or her under this Act and, if the chairperson is unable to act, the vice-chairperson may act as chairperson. Vice-chairperson

(4) If there is more than one vice-chairperson, the chairperson may designate one of them to act in the absence of the chairperson. Idem

(5) The chairperson may designate one or more members of the Board to sit as a panel and may direct the panel to conduct any hearing or to authorize any inquiry, investigation or other proceeding that the Board itself could conduct or authorize. Panels

(6) Despite subsection (5), the chairperson shall not appoint less than three members of the Board to a panel that conducts an industry-wide hearing. Idem

6.—(1) If a member of the Board for any reason ceases to be a member, he or she may, with the consent of the chairperson, in connection with any matter in which the member participated as a member of the Board, carry out and complete any duties and responsibilities and exercise any powers that he or she would have had had he or she not ceased to be a member of the Board. Completion of matters by members who resign or retire, etc.

Completion
of matters
where
member not
able to
continue

(2) Despite subsection 4 (2), if a member of the Board for any reason is unable to carry out and complete his or her duties, the Board and every panel of which he or she was a member may carry out and complete any duties and responsibilities and exercise any powers that it would have had had the member been able to carry out and complete his or her duties.

Staff

R.S.O. 1980,
c. 418

7.—(1) Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act*.

Professional
assistance

(2) The Board may engage persons other than those appointed under subsection (1) to provide professional, technical or other assistance to the Board and may establish the duties and terms of engagement and provide for the payment of the remuneration and expenses of such persons.

Immunity

8.—(1) No action or other proceeding for compensation or damages shall be instituted against the Board, its members or employees or persons appointed under subsection 7 (2) for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or the regulations or for any neglect or default in the performance or exercise in good faith of such duty or power.

Crown
liability
R.S.O. 1980,
c. 393

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Testimony in
civil
proceedings

(3) Except with the consent of the Board, no member or employee of the Board and no person appointed under subsection 7 (2) shall be required to testify in any civil proceeding, in any proceeding before the Board or in any proceeding before any other tribunal respecting information obtained in the discharge of his or her duties or while acting within the scope of his or her employment under this Act.

Annual
report

9.—(1) The Board shall at the close of each fiscal year file with the Minister an annual report upon the affairs of the Board.

Further
reports

(2) The Board shall make such further reports and provide the Minister with such information as the Minister from time to time requires.

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and lay them before the Assembly if it is in session or, if not, at the next session. Tabling of reports

10.—(1) All expenses incurred and expenditures made by the Board in the conduct of its affairs shall, until the 31st day of March, 1988, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

(2) The Lieutenant Governor in Council may assess all insurers with respect to any of the amounts appropriated under subsection (1) and not otherwise recovered and an insurer shall pay the amount assessed against it. Assessment of insurers

(3) Where an assessment is made under subsection (2), the share of a particular insurer shall be in the same proportion as the total gross premiums written by the insurer in Ontario for automobile insurance in its last preceding fiscal year bears to the total of all gross premiums written by all insurers in Ontario for automobile insurance in the last preceding fiscal year of each. Idem

11.—(1) The Board shall adopt the most expeditious method of determining the questions on the merits arising in any proceeding. Expeditious procedures

(2) The Board shall give adequate public notice of its hearings to the public. Notice of proceeding

(3) The Board shall give notice of an industry-wide hearing to every insurer. Idem

(4) The Board shall give notice of its hearings to the Superintendent. Idem

(5) The parties to proceedings before the Board are, Parties

(a) in the case of a review under section 24, the Facility Association and such other persons as give the Board written notice of their intention to participate as parties; and

(b) in any other case, the applicant, if any, and such other persons as give the Board written notice of their intention to participate as parties.

(6) Where an unincorporated association gives written notice of its intention to participate as a party to a proceeding before the Board, it shall thereafter be deemed to be a person Unincorporated association to be deemed a person

for the purposes of the proceeding and it may be a party in its own name.

Common
interest

(7) Where two or more parties have a common interest in respect of an application to the Board, the parties may authorize one or more of those parties to represent all of them and any order made by the Board may be made applicable to all.

Represent-
ation of
Superin-
tendent

(8) The Superintendent, as a party or otherwise, is entitled at any time, by counsel or otherwise, to take part in proceedings before the Board or to take part in appeals from any order of the Board whether or not the Superintendent appeared at any hearing or portion of a hearing.

Powers and
duties of
Board

12.—(1) The Board may exercise such powers and shall perform such duties as are necessary to carry out its functions under this Act and without restricting the generality of the foregoing, it may,

- (a) make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it;
- (b) determine, with respect to any particular hearing, what constitutes adequate public notice;
- (c) before or during a hearing, conduct any inquiry or inspection it considers necessary;
- (d) if, in its opinion, additional information is required by the Board, order an insurer or insurers' association or the Facility Association to provide the information in the possession of the insurer, insurers' association or Facility Association, as the case may be;
- (e) authorize any person, herein referred to as an inspector, to enter any place where an insurer or insurers' association or the Facility Association carries on business or keeps documents or things relating directly or indirectly to automobile insurance and to examine documents and things of the insurer, insurers' association or Facility Association, as the case may be, and make such inquiries as may be relevant;
- (f) require an insurer or insurers' association or the Facility Association, to provide print-outs of any documents or other information stored by electronic

means unless the insurer, insurers' association or Facility Association, as the case may be, is able to provide to the Board a copy of the document or information in some other form that is acceptable to the Board; and

- (g) in determining any matter, consider any relevant information obtained by it in addition to evidence given at a hearing, if it first informs the persons taking part in the proceedings of the additional information and gives them an opportunity to explain or refute it.

(2) Every insurer, every insurers' association and the Facility Association and their respective directors, officers and employees shall give all reasonable assistance to an inspector and shall answer all proper questions relating to the inquiry.

Assistance

(3) An inspector for the purposes of carrying out his or her duties,

Powers of
inspector

- (a) may enter any place described in clause (1) (e);
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the examination or inquiry;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them; and
- (d) may question a person on matters that are or may be relevant to the carrying out of the examination or inquiry subject to the person's right to have counsel or some other representative present during the questioning.

(4) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

Entry to
dwellings

(5) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of an examination or inquiry under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the person named in the warrant

Warrant for
search

to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Warrant for
entry

(6) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an inspector may carry out an examination or inquiry under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the person named in the warrant.

Execution
and expiry of
warrant

(7) A warrant issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(8) No person shall hinder, obstruct or interfere with an inspector in the execution of a warrant or otherwise impede an inspector in carrying out an inquiry.

Idem

(9) Subsection (8) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (5).

Admissibility
of copies

(10) Copies of, or extracts from, documents and things removed from premises under this Act and certified by the person who made the copies as being true copies of, or extracts from, the originals are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Idem

(11) No document or thing or copy thereof or extract therefrom in the possession of an inspector shall be introduced in evidence in any proceeding before the Board unless the owner of the document or thing is first given notice of the intent to introduce it into evidence.

Orders

13.—(1) The Board shall determine matters before it by order.

Terms

(2) The Board may make an order subject to such conditions as are set out in the order.

Conditions
precedent

(3) Without restricting the generality of subsection (2), the Board may provide in an order that the order does not come

into effect until the performance, to the satisfaction of the Board or of a person named by it for the purpose, of any conditions that the Board may impose.

(4) The Board may make interim orders pending the final decision of a matter before it, but no interim order shall be made that leads to an increase in a premium under a contract of automobile insurance unless the hearing on the matter has commenced.

Interim
orders

(5) Where, under subsection (4), the Board makes an interim order that leads to an increase in a premium under a contract of automobile insurance, and the final order of the Board leads to a decrease in the premium payable under the interim order, an insurer shall refund to its policyholder the amount of any premium overpayment retroactive to the day that the increase took effect under the interim order.

Insurers to
reimburse
policyholders

(6) An order of the Board shall be deemed to be sufficiently made if it is signed by a member or by an employee of the Board designated by the Board to sign orders on its behalf.

Making of
order

(7) The Board shall provide the Superintendent with a copy of every order made by it forthwith after making the order.

Copies of
orders

(8) The Board shall provide each insurer with a copy of every order that results from an industry-wide hearing forthwith after making the order.

Idem

14.—(1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and, subject to section 18, its action or decision thereon is final and conclusive for all purposes.

Exclusive
jurisdiction

(2) The Board may at any time, if it considers it advisable to do so, reconsider any order or decision made by it and confirm, vary or revoke the order or decision and in reconsidering any order or decision, it may restrict the reconsideration to such issues as it considers appropriate.

Reconsideration of
decisions,
etc.

15. Upon payment of the prescribed fee, if any, any person, during the normal office hours of the Board, may,

Access to
information

(a) examine material filed with the Board for the purpose of a hearing;

(b) examine rates filed with the Board by an insurer;

(c) examine a copy of any decision, order or reasons made or given by the Board; and

(d) obtain copies of any such material, rates, decision, order or reasons.

Costs

16.—(1) The costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be assessed.

Idem

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be assessed and allowed.

Idem

(3) The Board may establish a scale under which such costs shall be assessed.

Idem

(4) Costs awarded under this section may include the costs of the Board, regard being had to the time and expenses of the Board.

Stated case

17.—(1) The Board may, at the request of the Minister, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the Board, is a question of law.

Idem

(2) The Divisional Court shall hear and determine the stated case and remit it to the Board with the opinion of the Court thereon.

Appeal to
Divisional
Court

18.—(1) An appeal lies to the Divisional Court from any order of the Board upon a question of law or jurisdiction, but no such appeal lies unless leave to appeal is obtained from the Court within thirty clear days of the making of the order sought to be appealed from or within such further time as the Court under the special circumstances of the case allows.

Board and
Superin-
tendent may
be heard

(2) The Board and the Superintendent are entitled to be heard by counsel or otherwise upon the argument of any such appeal.

Board to act

(3) The Divisional Court shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion, but in no case shall such order be retroactive in its effect.

Not liable for
costs

(4) The Board is not liable for costs in connection with any appeal or application for leave to appeal under this section.

(5) An order of the Board takes effect at the time set out in the order, and its operation is not suspended by an appeal unless the Court otherwise orders.

No stay

PART II

RATE AND DIVIDEND REVIEW

19.—(1) The Lieutenant Governor in Council may prescribe the classes of risk exposures that may be considered in determining the premiums for coverages for different categories of automobile insurance and the procedures to be followed in assigning insureds and vehicles to any such class of risk exposure.

Classes of risk exposure

(2) Subsection (1) is amended on a day to be named by proclamation of the Lieutenant Governor by striking out “Lieutenant Governor in Council” in the first line and inserting in lieu thereof “Board, by order, following an industry-wide hearing”.

Amendment

20.—(1) Upon classes of risk exposure being prescribed for a category of automobile insurance, the Board, following an industry-wide hearing, shall set a rate or range of rates with respect to each such class of risk exposure.

Premium rates to be set by Board

(2) The Board may hold industry-wide hearings to review any rates or range of rates set by it and following such a hearing may vary any such rate or range of rates.

Review

(3) A rate or range of rates set by the Board may be expressed in dollar terms or in such other manner as the Board considers appropriate so that a person may determine the rate or range of rates for each class of risk exposure.

Expression of rates

(4) In setting a rate or range of rates, the Board shall set a rate or range of rates that in the opinion of the Board is just and reasonable and not excessive or inadequate.

Fair rates

(5) An industry-wide hearing shall be on the motion of the Board or on request of the Minister.

Hearing

(6) The Board in its discretion may consider at any one hearing the rate or range of rates for such class or classes of risk exposure for such category or categories of automobile insurance as it considers appropriate.

Idem

(7) In determining rates or ranges of rates, the Board may consider any financial or other matter directly or indirectly affecting rates.

Scope

Publication
of proposals

(8) The Board may, for the purposes of an industry-wide hearing, publish proposed rates or ranges of rates prepared by such person or persons as may be designated by the Board for any class or classes of risk exposures for any category or categories of automobile insurance and the Board shall make copies thereof available to the public without charge.

Response of
public

(9) The Board shall establish a procedure to give notice to the public of proposed rates or ranges of rates and to receive written submissions from the public in lieu of or in addition to any participation in a hearing.

Pre-hearing

(10) Before the commencement of an industry-wide hearing, the Board, after giving the parties an opportunity to be heard, may identify the issues that in its opinion are to be determined at the industry-wide hearing.

Effective
date

(11) A rate or range of rates set by the Board takes effect 120 days after the Board makes its order setting the rate or range of rates unless the Board otherwise orders.

Idem

(12) Despite subsection (11), an insurer may, by notice in writing to the Board, decide that the rate or range of rates set by the Board takes effect with respect to it on such day that is at least sixty days and less than 120 days after the Board's order as may be set out in the notice.

Revocation
of approved
rates

(13) If the Board under subsection (2) establishes a new rate or range of rates, all approvals of rates previously given under sections 22, 23 and 24 for that class of risk exposure shall be deemed to be revoked on the day the new rate or ranges of rates takes effect.

Amendment

(14) Subsection (2) is repealed on a day to be named by proclamation of the Lieutenant Governor and the following substituted therefor:

Review

(1a) The Board may hold industry-wide hearings for the purpose of reviewing either or both the classes of risk exposure for different categories of automobile insurance and the rates or ranges of rates set by it.

Variation of
rates

(2) Following an industry-wide hearing at which a rate or range of rates set by it is considered, the Board may vary the rate or range of rates and where classes of risk exposure are considered, it may vary the classes.

and on that day the following subsection is added to this section:

(5a) Any person may apply to the Board for changes in the classes of risk exposure, and where the Board, in its absolute discretion, is of the opinion that it would be in the public interest to consider the proposed changes, the Board shall hold an industry-wide hearing to review the proposed changes in the classes of risk exposure and the rates or ranges of rates with respect to the changes in the classes of risk exposure. Idem

(15) An industry-wide hearing commenced before the date named in the proclamation under subsection (14) shall be completed and the Board may make orders following the hearing as if this section had not been amended by that subsection. Transitional

21.—(1) Unless otherwise permitted under this Act, no insurer shall, Prohibition

(a) determine rates for any category of automobile insurance except on the basis of the prescribed classes of risk exposure for that category; or

(b) charge any rate other than,

(i) a rate that has been approved by the Board under section 22 or 23 in relation to that insurer, or

(ii) a rate that may be charged under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act* where the contract has been submitted to the insurer under that Act.

R.S.O. 1980,
c. 83

(2) Subsection (1) does not apply to an insurer with respect to a particular category of automobile insurance until the rates or ranges of rates with respect to the prescribed classes of risk exposure for that category have been set by the Board and have taken effect. Application

(3) Where an insurer writes contracts of automobile insurance that are not within a category of automobile insurance for which the rates or ranges of rates have been set under section 20, the insurer shall not charge any rate in respect of a coverage under such a contract that exceeds, Prohibition,
transitional

(a) the capped rate for the coverage where no order has been made under this section; or

(b) the rate set out in an order made under this section where such an order has been made.

Rates, transitional

(4) An insurer may apply to the Board for an order to increase any of its capped rates in respect of coverages referred to in subsection (3) and the Board may approve the increase if the insurer demonstrates that,

- (a) the circumstances of the insurer justify the increase; and
- (b) the resulting rate is just and reasonable and not excessive.

Idem

(5) The Board, in lieu of approving an increase of a capped rate, may reject or vary the rates proposed by the applicant having regard to the criteria set out in clauses (4) (a) and (b) and, if it is of the opinion that a capped rate that is the subject of the application is excessive, it may reduce the capped rate.

Increase of capped rates

(6) Where permitted by the regulations, an insurer may increase its capped rates by an amount that does not exceed the prescribed percentage.

New insurers and coverages

(7) Where an insurer was not providing a coverage on the 23rd day of April, 1987 but subsequently provides the coverage, the capped rate for the coverage is,

- (a) with respect to a coverage described in clause (a) of the definition of "capped rate" in subsection (8), the premium that would have been charged for the coverage for comparable risks for a term commencing on the 23rd day of April, 1987 had the premium been calculated using the Facility Association rate in effect on that date; and
- (b) with respect to a coverage described in clause (b) or (c) of the said definition, 90 per cent of the premium described in clause (a) of this subsection.

Definitions

(8) In this section,

"capped rate" means,

- (a) in the case of any coverage under a contract of automobile insurance, other than a coverage provided through the Facility Association or a coverage to which clause (b) or (c) applies, the lesser of,
 - (i) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 23rd day of April, 1987 had the premium been calculated using

the rules, procedures and factors used by the insurer on that date, and

- (ii) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 23rd day of April, 1987 had the premium been calculated using the Facility Association rate in effect on that date,
- (b) in the case of a premium for any coverage determined in whole or in part on the basis that an insured under the contract is a male under the age of twenty-five years,
 - (i) 90 per cent of the premium described in subclause (a) (ii) if the insured is insured through the Facility Association,
 - (ii) 90 per cent of the lesser of the premiums described in subclauses (a) (i) and (ii) if the insured is not insured through the Facility Association,
- (c) in the case of a premium for any coverage determined in whole or in part on the basis that an automobile insured under the contract is a taxi, the lesser of,
 - (i) the premium described in subclause (a) (i), and
 - (ii) 90 per cent of the premium described in subclause (a) (ii);

“Facility Association rate” means the premium for a coverage determined under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act*;

R.S.O. 1980,
c. 83

“insured” means an insured as defined in section 201 of the *Insurance Act*.

R.S.O. 1980,
c. 218

(9) A reference in this section to “capped rate” shall be deemed to include a reference to a capped rate as determined by the Board under subsections (4) and (5) and to a capped rate as increased under subsection (6).

Idem

22.—(1) An insurer that intends to charge the rate set under section 20 or a rate within the range of rates set under

Approval of
rates

that section for a class of risk exposure shall apply to the Board for approval of the rate it intends to charge.

Timing

- (2) An application shall be made under subsection (1),
- (a) within thirty days of an order being made under section 20 setting a rate or range of rates;
 - (b) before varying any rate previously approved by the Board, where the rate, when varied, will be within the range of rates set out under section 20; and
 - (c) before entering any contract of automobile insurance with respect to which a rate or range of rates has been set under section 20, where the insurer was not writing contracts that covered that class of risk exposure at the time the rate or range of rates was set.

Statutory declaration

(3) An application under subsection (1) shall be accompanied by the statutory declaration of an officer of the insurer declaring that the proposed rate is the same as the rate set by the Board or is within the range of rates set by the Board, as the case may be.

Extension of time

(4) On the application of the insurer made not less than three days that are not a Saturday or holiday before the expiry of the thirty-day period referred to in clause (2) (a), the Board may extend the period for a period not exceeding thirty days.

Idem

(5) Where an application is received under subsection (4), the Board shall be deemed to have approved the application unless it holds a hearing in respect of the application before the expiry of the thirty-day period referred to in clause (2) (a).

Late filing

(6) The Board shall accept applications received by it under subsection (1) after the expiry of a limitation period prescribed by this section but such acceptance does not relieve an insurer from prosecution under this Act.

Approval

(7) An application under subsection (1) shall be deemed to have been approved by the Board twenty days after its filing unless the Board within that twenty-day period advises the applicant orally or otherwise that it has not approved the application because the Board is of the opinion that the rate is not the same as the rate set by the Board under section 20 or within the range of rates set under that section.

(8) Where the Board advises an applicant orally that it has not approved an application under subsection (1), it shall forthwith mail a written notice to the insurer confirming that fact. Idem

(9) Where the Board notifies an insurer that it has not approved an application under subsection (1), it shall hold a hearing. Hearing

(10) Although an application may be deemed to have been approved under subsection (7), if the Board is subsequently of the opinion that the rate is not the same as the rate set under section 20 or within the range of rates set under that section, the Board shall hold a hearing into the matter. Idem

(11) Following a hearing under subsection (9) or (10), the Board may approve the application or it may vary the rate to the rate set under section 20 or to a rate within the range of rates set under that section and the rate as so varied shall be deemed to be a rate approved under this section. Powers of Board

(12) The Board may waive public notice with respect to a hearing under this section. Public notice may be waived

23.—(1) Where an insurer wishes to charge a rate for a class of risk exposure other than a rate to which section 22 applies, the insurer shall apply to the Board for approval of the rate. Rates outside range

(2) Except as provided in subsections (3) and (5), the Board shall hold a hearing with respect to applications under subsection (1). Hearing required

(3) Where all of the rates included in an application under subsection (1) are below the rates or ranges of rates set under section 20, the application shall be deemed to have been approved by the Board thirty days after its filing, unless the Board within that thirty-day period advises the applicant orally or otherwise that it has not approved the application because the Board is of the opinion that, Exception

(a) it is in the public interest to hold a hearing on the application; or

(b) the Board does not have sufficient information upon which to make a decision concerning the application.

(4) Where the Board advises an applicant orally that it has not approved an application referred to in subsection (3), it Idem

shall forthwith mail a written notice to the insurer confirming that fact.

Filing of
additional
information

(5) Where the Board advises an applicant that it has not approved an application referred to in subsection (3) because of insufficient information, the Board in its discretion may permit the insurer to file additional information within a specified period and it may extend the thirty-day period accordingly.

Powers of
the Board

(6) Following a hearing required by this section, the Board may approve the application or it may reject or vary the proposed rate and the rate so varied shall be deemed to be a rate approved under this section.

Public notice
may be
waived

(7) The Board may waive public notice with respect to a hearing under this section.

Fair rates

(8) Where an insurer applies for the approval of any rate under this section, the insurer must demonstrate that the proposed rate is just and reasonable and not excessive or inadequate and that the circumstances of the insurer justify the use of the proposed rate.

Rates
pending
decision

(9) Despite subsection 20 (13), where an application is made under this section, the insurer, until the Board makes its decision with respect to the application, may continue to charge the rate for the class of risk exposure to which the application relates that it was charging immediately before the application was filed with the Board or it may charge a lower rate.

Idem

(10) Where the rate approved by the Board under this section is less than the rate charged by the insurer, as permitted by subsection (9), the Board's approval may be made retroactive to the date the application was filed with the Board or such later date as the Board may determine and, if the order is retroactive, the insurer shall reimburse its policyholders for any excess of premiums.

Facility
Association
rates

24.—(1) Subject to subsection (12) but despite any other provision of this Act or the regulations, the Facility Association shall not promulgate any rate in respect of contracts of automobile insurance provided under the Plan of Operation under the *Compulsory Automobile Insurance Act* that has not been set or approved by the Board under this section.

R.S.O. 1980,
c. 83

Idem

(2) The Facility Association shall apply to the Board for approval of rates prepared by it under section 10 of the *Compulsory Automobile Insurance Act*.

(3) The Board of its own motion may, and at the request of the Minister shall, review rates in respect of contracts of automobile insurance provided under the Plan of Operation under the *Compulsory Automobile Insurance Act* and, following a hearing, may set rates that it considers to be just and reasonable and not excessive or inadequate in respect of such contracts.

Idem

R.S.O. 1980,
c. 83

(4) Where a rate or range of rates is set under section 20 for a class of risk exposure, all rates in respect of that class promulgated by the Facility Association before the coming into force of this section or set under subsection (3) shall be deemed to be revoked on the day the rate or range of rates takes effect.

Revocation
of rates

(5) Where a rate will be revoked under subsection (4) or an approval will be revoked under subsection 20 (13), the Facility Association, within thirty days of an order being made under section 20 setting a rate or range of rates, shall prepare and apply to the Board for approval to promulgate a rate that,

Approval of
rates

(a) is the rate set under section 20 or is a rate within the range of rates set under that section; or

(b) is not a rate to which clause (a) applies.

(6) The Facility Association may at any time apply to the Board for the variation of any rate previously promulgated by it.

Idem

(7) Subsections 22 (3) to (12) apply with necessary modifications to the approval of a rate to which clause (5) (a) applies.

Procedures
and powers
of Board

(8) Where an application is made under this section and subsections 22 (3) to (12) do not apply to the application,

Idem

(a) the Facility Association must demonstrate that the proposed rate is just and reasonable and not excessive or inadequate;

(b) the Board may approve, reject or vary the proposed rate.

(9) Despite subsection 20 (13), if the Facility Association makes an application under clause (5) (b) or applies to vary a rate approved in an application under clause (5) (a) so that the rate will no longer be the rate set under section 20 or within the range of rates set under that section, the rates for the class of risk exposure to which the application relates that

Rates
pending
decision

were in effect under the Plan of Operation immediately before the application continue in effect until the Board makes its decision.

Idem

(10) Where the Facility Association makes an application described in subsection (8) and the Board approves a rate that is less than the rate continued in effect under subsection (9), the Board's approval may be made retroactive to the date the application was filed with the Board or such later date as the Board may determine and, if the order is retroactive, an insurer shall reimburse its policyholders for any excess of premiums.

Promulgation

(11) The Facility Association shall promulgate rates set or approved under this section forthwith after they are approved or set.

Existing rates
R.S.O. 1980,
c. 83

(12) Subject to subsection (4), rates promulgated by the Facility Association under section 10 of the *Compulsory Automobile Insurance Act* before the coming into force of the section continue in force until they are varied in accordance with this section.

Dividends

25.—(1) No insurer shall issue a dividend in respect of a contract of automobile insurance unless the dividend has been approved by the Board.

Power of
Board

(2) Where an application is made under this section, the Board may approve, reject or vary the proposed dividend.

Matters to be
considered

(3) Where an insurer applies for the approval of a dividend under this section, the insurer must demonstrate that the proposed dividend is just and reasonable and not excessive and that the circumstances of the insurer justify the proposed dividend.

Hearing not
required

(4) The Board may dispense with a hearing with respect to an application under this section.

PART III

ENFORCEMENT, REGULATIONS AND MISCELLANEOUS

Offences and
penalties

26.—(1) Every person who contravenes or fails to comply with this Act, the regulations or an order of the Board is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, in the case of an individual, and not more than \$100,000, in any other case.

(2) If a corporation or the Facility Association contravenes or fails to comply with this Act, the regulations or an order of the Board, every officer or director thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or Facility Association, as the case may be, has been prosecuted or convicted.

Parties

(3) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Board.

Consent

(4) No proceeding for an offence under this Act shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Board.

Limitation
period

27.—(1) The Superintendent, with the approval of the Lieutenant Governor in Council, may issue policy statements on matters related to categories of automobile insurance, classes of risk exposure and automobile insurance rates and dividends.

Policy
statements

(2) A policy statement takes effect on the day it is published in *The Ontario Gazette*.

When
effective

(3) In making orders under this Act, the Board shall have regard to the policy statements issued under this section.

Effect of
statements

28. The Lieutenant Governor in Council may require the Board to examine and report on any question related to automobile insurance that, in the opinion of the Lieutenant Governor in Council, requires a public hearing.

References

29.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing classes of risk exposure and categories of automobile insurance for the purposes of this Act;

(b) prescribing types of contracts of automobile insurance and types of endorsements to contracts of automobile insurance to which Part II applies;

(c) prescribing procedures to be followed in assigning insureds and vehicles to a class of risk exposure;

- (d) prescribing the manner of gathering statistics and other information in relation to automobile insurance;
- (e) prescribing information to be filed with the Board by insurers and insurers' associations and the Facility Association, the time or times at which the information is to be filed and requiring that the accuracy of the information be certified by an actuary or an accountant as may be appropriate;
- (f) prescribing fees payable with respect to proceedings before the Board and with respect to the fees referred to in section 15;
- (g) exempting insurers from the requirements of Part II in respect of such categories of automobile insurance, such coverages or such classes of risk exposure as may be set out in the regulations;
- (h) permitting insurers to increase their capped rates as defined in subsection 21 (8) by such percentage as is set out in the regulations;
- (i) prescribing forms including affidavits and statutory declarations and providing for their use;
- (j) authorizing the Board, following a hearing by the Board, to approve risk management programs for one or more policyholders within such class or classes of policyholders as may be named in the regulations.

Idem

(2) A regulation made under clause (1) (h) may be made retroactive to the 1st day of January, 1988.

Amendments

(3) On a day to be named by proclamation of the Lieutenant Governor,

- (a) subsection (1) is amended by striking out clauses (a), (b), (c), (g) and (h); and**
- (b) subsection (2) is repealed and the following substituted therefor:**

Idem

(1a) The Board, by order, may make regulations,

- (a) prescribing classes of risk exposure and categories of automobile insurance for the purposes of this Act;

- (b) prescribing procedures to be followed in assigning insureds and vehicles to a class of risk exposure;
- (c) prescribing types of contracts of automobile insurance and types of endorsements to contracts of automobile insurance to which Part II applies;
- (d) exempting insurers from the requirements of Part II in respect of such categories of automobile insurance, such coverages or such classes of risk exposure as may be set out in the regulations.

(2) Regulations made under clauses (1) (a), (b), (c) and (g), and section 19, as they read before the coming into force of this subsection, continue in force until remade or revoked by the Board. Transitional

30.—(1) The *Regulations Act* does not apply to rules made under clause 12 (1) (a) or to orders of the Board. Non-application of R.S.O. 1980, c. 446

(2) A regulation made by the Board under section 19 or 29 does not come into force until it is published in *The Ontario Gazette* or until such date following the publication as is set out in the regulation. Publication required

(3) Subsection (2) comes into force on the day named in the proclamation under subsection 29(3). Commencement

31. In the event of conflict between this Act and any other Act, except the *Human Rights Code, 1981*, this Act prevails. Conflict with other Acts 1981, c. 53

32.—(1) Subsections 10 (3) to (13) of the *Compulsory Automobile Insurance Act*, being chapter 83 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(3) The Association may prepare rates in respect of contracts provided under the Plan. Rates

(4) Rates prepared under subsection (3) do not come into effect until approved by the Ontario Automobile Insurance Board. Idem

(2) Clause 15 (d) of the said Act is repealed.

33.—(1) No insurer shall differentiate or make a distinction, exclusion or preference in a contract of automobile insurance on the basis of age, sex, marital status, family status or handicap. Prohibition against discrimination

Commencement (2) Subsection (1) comes into force on the day named in the proclamation under subsection 29(3).

Commence-
ment **34.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **35.** The short title of this Act is the *Ontario Automobile Insurance Board Act, 1988*.

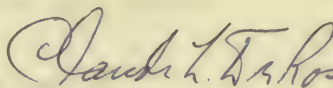


Bill 5

(Chapter 29
Statutes of Ontario, 1988)

An Act to amend the Proceedings Against the Crown Act

The Hon. I. Scott
Attorney General



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	November 4th, 1987
<i>2nd Reading</i>	June 2nd, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988

Bill 5

1987

An Act to amend the Proceedings Against the Crown Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 25 (2a) of the *Proceedings Against the Crown Act*, being chapter 393 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1985, chapter 6, section 16, is amended by adding at the end thereof “subject to section 7 of the *Wages Act*”.

(2) Subsection 25 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 88, section 1 and amended by the Statutes of Ontario, 1985, chapter 6, section 16, is repealed and the following substituted therefor:

(3) A garnishment is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of garnishment to the person named in the notice of garnishment. Limitation

(4) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the method of service on the Crown of notices of garnishment in place of the method prescribed in section 14;
- (b) providing that a notice of garnishment issued against the Crown is not effective unless a statement of particulars in the prescribed form is served with the notice of garnishment;
- (c) providing that a notice of garnishment issued against the Crown shall be deemed to be served on the day that is the number of days specified in the regulation after the actual date of service or after the effective date of service under the rules of the

court that issued the notice of garnishment, as the case may be, but the regulation shall not specify more than thirty days as the number of days;

- (d) prescribing the form of statement of particulars for the purposes of this section.

Interpretation

(5) In this section, "administrative unit" means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

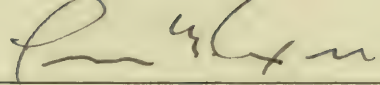
R.S.O. 1980,
cc. 106, 235

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Proceedings Against the Crown Amendment Act, 1988*.

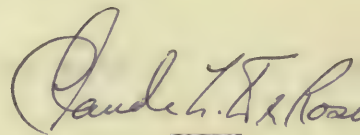


Bill 6

(Chapter 37
Statutes of Ontario, 1988)

An Act to amend the Execution Act

The Hon. I. Scott
Attorney General



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	November 4th, 1987
<i>2nd Reading</i>	June 27th, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

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Bill 6

1987

An Act to amend the Execution Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 10 (1) of the *Execution Act*, being chapter 146 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) Subject to the *Land Titles Act* and to section 11, a writ of execution binds the goods and lands against which it is issued from the time it has been received for execution and recorded by the sheriff.

Writs against
lands and
goods
R.S.O. 1980,
c. 230

(1a) Notwithstanding subsection (1), no writ of execution against goods other than bills of sale and instruments in the nature of chattel mortgages prejudices the title to such goods acquired by a person in good faith and for valuable consideration unless such person at the time of acquiring title had notice that such writ or any other writ by virtue of which the goods of the execution debtor might be seized or attached has been delivered to the sheriff and remains in the sheriff's hands unexecuted.

Exception

(2) Subsection 10 (2) of the said Act is repealed and the following substituted therefor:

(2) The sheriff shall keep an index or a book in which shall be entered a record of all writs and renewals received.

Index to be
kept

2. Subsection 11 (2) of the said Act is amended by striking out "filed" in the fifth line and inserting in lieu thereof "received for execution and recorded by the sheriff".

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Execution Amendment Act, 1988*.

Short title

Bill 7

(Chapter 30
Statutes of Ontario, 1988)

**An Act to implement the
Model Law on
International Commercial
Arbitration
adopted by the
United Nations Commission
on International Trade Law**

The Hon. I. Scott
Attorney General

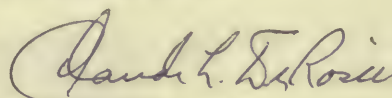
<i>1st Reading</i>	November 5th, 1987
<i>2nd Reading</i>	June 2nd, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988

Projet de loi 7

(Chapitre 30
Lois de l'Ontario de 1988)

**Loi portant mise en
application de la Loi type
sur l'arbitrage commercial
internationale adoptée par la
Commission des Nations
Unies pour le droit
commercial international**

L'honorable I. Scott
procureur général



CLERK
LEGISLATIVE ASSEMBLY

<i>1^{re} lecture</i>	5 novembre 1987
<i>2^e lecture</i>	2 juin 1988
<i>3^e lecture</i>	8 juin 1988
<i>sanction royale</i>	8 juin 1988

Bill 7**1987****An Act to implement the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definition

1.—(1) In this Act,

"Code"

"Model Law" means the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law on June 21, 1985, as set out in the Schedule.

Idem

(2) Except as otherwise provided, words and expressions used in this Act have the same meaning as the corresponding words and expressions in the Model Law.

Definition of
"this State"
in Model
Law

(3) In article 1 (1) of the Model Law, an "agreement in force between this State and any other State or States" means an agreement between Canada and any other country or countries that is in force in Ontario.

Idem

(4) In articles 34 (2) (b) (i) and 36 (1) (b) (i) of the Model Law, "the law of this State" means the laws of Ontario and any laws of Canada that are in force in Ontario.

Idem

(5) In article 35 (2) of the Model Law, "this State" means Canada.

Idem

(6) In articles 1 (2) and (5), 27, 34 (2) (b) (ii) and 36 (1) (b) (ii) of the Model Law, "this State" means Ontario.

Definition of
"different
States" in
Model Law

(7) In article 1 (3) of the Model Law, "different States" means different countries, and "the State" means the country.

Projet de loi 7

1987

**Loi portant mise en application de la Loi type
sur l'arbitrage commercial international adoptée
par la Commission des Nations Unies pour le droit
commercial international**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) La définition qui suit s'applique à la présente loi. Définition

«Code» La Loi type sur l'arbitrage commercial international adoptée par la Commission des Nations Unies pour le droit commercial international le 21 juin 1985 et dont le texte est reproduit à l'annexe. «Model Law»

(2) Sauf disposition contraire, les termes de la présente loi s'entendent au sens du Code. Idem

(3) À l'article 1 (1) du Code, l'expression «accord multilatéral ou bilatéral en vigueur pour le présent État» s'entend de l'accord multilatéral ou bilatéral auquel le Canada est partie et qui est en vigueur en Ontario. Définition de «présent État» dans le Code

(4) Aux articles 34 (2) b) (i) et 36 (1) b) (i) du Code, l'expression «la loi du présent État» s'entend des lois de l'Ontario ainsi que des lois du Canada qui sont en vigueur en Ontario. Idem

(5) À l'article 35 (2) du Code, l'expression «le présent État» s'entend du Canada. Idem

(6) Aux articles 1 (2) et (5), 27, 34 (2) b) (ii) et 36 (1) b) (ii) du Code, l'expression «le présent État» s'entend de l'Ontario. Idem

(7) À l'article 1 (3) du Code, l'expression «États différents» s'entend des pays différents, et le terme «l'État» s'entend du pays. Définition d'«États différents» dans le Code

Definition of
"competent
court" in
Model Law

(8) In the Model Law, a reference to "a competent court" means the Supreme or District Court.

Model Law
in force in
Ontario

2.—(1) Subject to this Act, the Model Law is in force in Ontario.

Application

(2) The Model Law applies to international commercial arbitration agreements and awards, whether made before or after the coming into force of this Act.

Idem

(3) Despite article 1 (3) (c) of the Model Law, an arbitration conducted in Ontario between parties that all have their places of business in Ontario is not international only because the parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one country.

Conciliation
and other
proceedings

3. For the purpose of encouraging settlement of a dispute, an arbitral tribunal may, with the agreement of the parties, use mediation, conciliation or other procedures at any time during the arbitration proceedings and, with the agreement of the parties, the members of the arbitral tribunal are not disqualified from resuming their roles as arbitrators by reason of the mediation, conciliation or other procedure.

Removal of
arbitrator

4.—(1) Unless the parties otherwise agree, if an arbitrator is replaced or removed in accordance with the Model Law, any hearing held prior to the replacement or removal shall start afresh.

Idem

(2) The parties may remove an arbitrator or a substitute arbitrator at any time prior to the final award, regardless of how the arbitrator was appointed.

Article 11 (1)
of Model
Law replaced

5. Article 11 (1) of the Model Law shall be deemed to read as follows:

(1) A person of any nationality may be an arbitrator.

Rules
applicable to
substance of
dispute

6. Despite article 28 (2) of the Model Law, if the parties fail to make a designation pursuant to article 28 (1) of the Model Law, the arbitral tribunal shall apply the rules of law it considers to be appropriate given all the circumstances respecting the dispute.

Consolidation
of
proceedings

7.—(1) The Supreme or District Court, on the application of the parties to two or more arbitration proceedings, may order,

(a) the arbitration proceedings to be consolidated, on terms it considers just;

(8) La mention de «tribunal compétent» dans le Code s'entend de la Cour suprême ou de la Cour de district.

Définition de «tribunal compétent» dans le Code

2 (1) Sous réserve de la présente loi, le Code est en vigueur en Ontario.

Code en vigueur en Ontario

(2) Le Code s'applique aux conventions d'arbitrage commercial international conclues et aux sentences arbitrales rendues avant ou après l'entrée en vigueur de la présente loi.

Champ d'application

(3) Malgré l'article 1 (3) c) du Code, l'arbitrage qui a lieu en Ontario entre des parties qui toutes ont leur établissement en Ontario, n'est pas considéré comme international pour la seule raison que les parties sont convenues expressément que l'objet de la convention d'arbitrage a des liens avec plus d'un pays.

Idem

3 Pour faciliter le règlement d'un différend, le tribunal arbitral peut, à toute étape de la procédure arbitrale, avoir recours, avec l'accord des parties, à la médiation, à la conciliation ou à tout autre mode de règlement. Il peut également, avec leur accord, reprendre son rôle d'arbitre.

Conciliation et autres modes de règlement

4 (1) Toute procédure orale antérieure à un remplacement ou à une révocation d'arbitre conforme au Code est, sauf décision contraire des parties, à recommencer.

Révocation d'arbitre

(2) Les parties peuvent révoquer un arbitre ou un arbitre remplaçant n'importe quand avant la sentence définitive, indépendamment du mode de nomination de celui-ci.

Idem

5 L'article 11 (1) du Code est réputé rédigé comme suit :

L'article 11 (1) du Code est remplacé

(1) Une personne peut être nommée arbitre quelle que soit sa nationalité.

6 Malgré l'article 28 (2) du Code, à défaut par les parties de procéder à la désignation prévue à son article 28 (1), le tribunal arbitral applique les règles de droit qu'il estime indiquées compte tenu des circonstances de l'espèce.

Règles applicables au fond du différend

7 (1) La Cour suprême ou la Cour de district, sur demande des parties à plus d'une procédure arbitrale, peut ordonner :

Réunion de procédures

a) leur réunion, aux conditions qu'elle estime équitables;

(b) the arbitration proceedings to be heard at the same time, or one immediately after another; or

(c) any of the arbitration proceedings to be stayed until after the determination of any other of them.

Appointment
of arbitral
tribunal

(2) Where the court orders arbitration proceedings to be consolidated pursuant to clause (1) (a) and the parties to the consolidated arbitration proceedings are in agreement as to the choice of the arbitral tribunal for that arbitration proceeding, the court shall appoint the arbitral tribunal chosen by the parties, but, if the parties cannot agree, the Court may appoint the arbitral tribunal for that arbitration proceeding.

Court order
not required
for consoli-
dation

(3) Nothing in this section shall be construed as preventing the parties to two or more arbitration proceedings from agreeing to consolidate those arbitration proceedings and taking such steps as are necessary to effect that consolidation.

Stay of
proceedings

8. Where, pursuant to article 8 of the Model Law, a court refers the parties to arbitration, the proceedings of the court are stayed with respect to the matters to which the arbitration relates.

Interim
measures and
security

9. An order of the arbitral tribunal under article 17 of the Model Law for an interim measure of protection and the provision of security in connection with it is subject to the provisions of the Model Law as if it were an award.

Recognition
and
enforcement
of foreign
arbitral
awards

10. For the purposes of articles 35 and 36 of the Model Law, an arbitral award includes a commercial arbitral award made outside Canada, even if the arbitration to which it relates is not international as defined in article 1 (3) of the Model Law.

Enforcement

11.—(1) An arbitral award recognized by the court is enforceable in the same manner as a judgment or order of the court.

Idem

(2) An arbitral award recognized by the court binds the persons as between whom it was made and may be relied on by any of those persons in any legal proceeding.

Crown bound

12. This Act applies to an arbitration to which Her Majesty is a party.

Aids to
interpretation

13. For the purpose of interpreting the Model Law, recourse may be had, in addition to aids to interpretation ordinarily available under the law of Ontario, to,

- b) leur audition simultanée ou consécutive;
- c) le sursis de telle ou telle d'entre elles jusqu'à détermination de n'importe laquelle des autres.

(2) Dans les cas où la Cour ordonne la réunion prévue à l'alinéa (1) a) et où les parties à ces procédures sont d'accord sur le choix d'un tribunal arbitral, celui-ci est nommé par la Cour. À défaut d'accord des parties, elle peut nommer un tribunal arbitral pour ces procédures.

Nomination
du tribunal
arbitral

(3) Le présent article n'a pas pour effet d'empêcher les parties à plus d'une procédure arbitrale de s'entendre sur leur réunion et de prendre toutes mesures nécessaires à cette fin.

Réunion sans
ordonnance

8 Dans le cas où, en vertu de l'article 8 du Code, un tribunal renvoie les parties à l'arbitrage, il est sursis aux procédures devant ce tribunal qui sont liées aux questions se rapportant à l'arbitrage.

Sursis de
procédures

9 Est assujettie aux dispositions du Code comme s'il s'agissait d'une sentence, l'ordonnance du tribunal arbitral prévue à l'article 17 du Code qui porte sur les mesures provisoires ou conservatoires ainsi que le versement d'une provision appropriée.

Mesures
provisoires

10 Pour l'application des articles 35 et 36 du Code, une sentence arbitrale s'entend notamment d'une sentence arbitrale commerciale rendue à l'extérieur du Canada, même si l'arbitrage auquel elle est liée n'est pas international au sens de l'article 1 (3) du Code.

Reconnais-
sance et exé-
cution des
sentences
arbitrales
étrangères

11 (1) La sentence arbitrale reconnue par le tribunal est exécutoire comme s'il s'agissait d'un jugement ou d'une ordonnance rendus par le tribunal.

Exécution

(2) La sentence arbitrale reconnue par le tribunal lie les personnes à l'égard desquelles elle a été rendue. Ces personnes peuvent invoquer la sentence dans toute action en justice.

Idem

12 La présente loi s'applique à l'arbitrage auquel Sa Majesté est partie.

Couronne liée

13 Afin d'interpréter le Code, on peut avoir recours aux documents suivants :

Guide d'inter-
prétation

- (a) the Report of the United Nations Commission on International Trade Law on the work of its eighteenth session (June 3-21, 1985); and
- (b) the Analytical Commentary contained in the Report of the Secretary General to the eighteenth session of the United Nations Commission on International Trade Law,

as published in The Canada Gazette, Part I, Vol. 120, No. 40, October 4, 1986, Supplement.

Repeal

14. The *Foreign Arbitral Awards Act, 1986*, being chapter 25, is repealed.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *International Commercial Arbitration Act, 1988*.

- a) le Rapport de la Commission des Nations Unies pour le droit commercial international sur les travaux de sa dix-huitième session, du 3 au 21 juin 1985;
- b) le commentaire analytique figurant dans le rapport du Secrétaire général à la dix-huitième session de la Commission des Nations Unies pour le droit commercial international,

tels qu'ils sont publiés dans La Gazette du Canada, Partie I, Vol. 120, n° 40, le 4 octobre 1986, Supplément. Ces documents s'ajoutent aux guides d'interprétation auxquels on a recours habituellement en vertu de la loi de l'Ontario.

14 La *Loi de 1986 sur les sentences arbitrales étrangères*, Abrogation
qui constitue le chapitre 25, est abrogée.

15 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en
vigueur

16 Le titre abrégé de la présente loi est *Loi de 1988 sur l'arbitrage commercial international*. Titre abrégé

SCHEDULE

UNCITRAL MODEL LAW ON INTERNATIONAL
COMMERCIAL ARBITRATION

(As adopted by the United Nations
Commission on International Trade Law on
21 June, 1985)

CHAPTER I. GENERAL PROVISIONS

Article 1. *Scope of application*

- (1) This Law applies to international commercial arbitration, subject to any agreement in force between this State and any other State or States.
- (2) The provisions of this Law, except articles 8, 9, 35 and 36, apply only if the place of arbitration is in the territory of this State.
- (3) An arbitration is international if:
 - (a) the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States; or
 - (b) one of the following places is situated outside the State in which the parties have their places of business:
 - (i) the place of arbitration if determined in, or pursuant to, the arbitration agreement,
 - (ii) any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or
 - (c) the parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one country.
- (4) For the purposes of paragraph (3) of this article:
 - (a) if a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement;
 - (b) if a party does not have a place of business, reference is to be made to his habitual residence.
- (5) This Law shall not affect any other law of this State by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Law.

Article 2. *Definitions and rules of interpretation*

For the purposes of this Law:

- (a) "arbitration" means any arbitration whether or not administered by a permanent arbitral institution;
- (b) "arbitral tribunal" means a sole arbitrator or a panel of arbitrators;

ANNEXE

LOI TYPE DE LA CNUDCI SUR L'ARBITRAGE COMMERCIAL
INTERNATIONAL

(telle qu'adoptée par la Commission des Nations Unies
pour le droit commercial international le 21 juin 1985)

CHAPITRE PREMIER. DISPOSITIONS GÉNÉRALES

Article premier *Champ d'application*

(1) La présente loi s'applique à l'arbitrage commercial international; elle ne porte atteinte à aucun accord multilatéral ou bilatéral en vigueur pour le présent État.

(2) Les dispositions de la présente loi, à l'exception des articles 8, 9, 35 et 36, ne s'appliquent que si le lieu de l'arbitrage est situé sur le territoire du présent État.

(3) Un arbitrage est international si :

a) les parties à une convention d'arbitrage ont, au moment de la conclusion de ladite convention, leur établissement dans des États différents; ou

b) un des lieux ci-après est situé hors de l'État dans lequel les parties ont leur établissement :

(i) le lieu de l'arbitrage, s'il est stipulé dans la convention d'arbitrage ou déterminé en vertu de cette convention,

(ii) tout lieu où doit être exécutée une partie substantielle des obligations issues de la relation commerciale ou le lieu avec lequel l'objet du différend a le lien le plus étroit; ou

c) les parties sont convenues expressément que l'objet de la convention d'arbitrage a des liens avec plus d'un pays.

(4) Aux fins du paragraphe (3) du présent article :

a) si une partie a plus d'un établissement, l'établissement à prendre en considération est celui qui a la relation la plus étroite avec la convention d'arbitrage;

b) si une partie n'a pas d'établissement, sa résidence habituelle en tient lieu.

(5) La présente loi ne porte atteinte à aucune autre loi du présent État en vertu de laquelle certains différends ne peuvent être soumis à l'arbitrage ou ne peuvent l'être qu'en application de dispositions autres que celles de la présente loi.

Article 2 *Définitions et règles d'interprétation*

Aux fins de la présente loi :

a) le terme «arbitrage» désigne tout arbitrage que l'organisation en soit ou non confiée à une institution permanente d'arbitrage;

b) l'expression «tribunal arbitral» désigne un arbitre unique ou un groupe d'arbitres;

- (c) "court" means a body or organ of the judicial system of a State;
- (d) where a provision of this Law, except article 28, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination;
- (e) where a provision of this Law refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- (f) where a provision of this Law, other than in articles 25 (a) and 32 (2) (a), refers to a claim, it also applies to a counter-claim, and where it refers to a defence, it also applies to a defence to such counter-claim.

Article 3. *Receipt of written communications*

- (1) Unless otherwise agreed by the parties:

- (a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it;
- (b) the communication is deemed to have been received on the day it is so delivered.

- (2) The provisions of this article do not apply to communications in court proceedings.

Article 4. *Waiver of right to object*

A party who knows that any provision of this Law from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

Article 5. *Extent of court intervention*

In matters governed by this Law, no court shall intervene except where so provided in this Law.

Article 6. *Court or other authority for certain functions of arbitration assistance and supervision*

The functions referred to in articles 11 (3), 11 (4), 13 (3), 14, 16 (3) and 34 (2) shall be performed by the Supreme or District Court.

CHAPTER II. ARBITRATION AGREEMENT

Article 7. *Definition and form of arbitration agreement*

- (1) "Arbitration agreement" is an agreement by the parties to submit to

- c) le terme «tribunal» désigne un organisme ou organe du système judiciaire d'un État;
- d) lorsqu'une disposition de la présente loi, à l'exception de l'article 28, laisse aux parties la liberté de décider d'une certaine question, cette liberté emporte le droit pour les parties d'autoriser un tiers, y compris une institution, à décider de cette question;
- e) lorsqu'une disposition de la présente loi se réfère au fait que les parties sont convenues ou peuvent convenir d'une question, ou se réfère de toute autre manière à une convention des parties, une telle convention englobe tout règlement d'arbitrage qui y est mentionné;
- f) lorsqu'une disposition de la présente loi, autre que celles de l'alinéa a) de l'article 25 et de l'alinéa (2) a) de l'article 32, se réfère à une demande, cette disposition s'applique également à une demande reconventionnelle et lorsqu'elle se réfère à des conclusions en défense, elle s'applique également à des conclusions en défense sur une demande reconventionnelle.

Article 3 *Réception de communications écrites*

(1) Sauf convention contraire des parties :

- a) toute communication écrite est réputée avoir été reçue si elle a été remise soit à la personne du destinataire, soit à son établissement, à sa résidence habituelle ou à son adresse postale; si aucun de ces lieux n'a pu être trouvé après une enquête raisonnable, une communication écrite est réputée avoir été reçue si elle a été envoyée au dernier établissement, à la dernière résidence habituelle ou à la dernière adresse postale connue du destinataire par lettre recommandée ou tout autre moyen attestant la tentative de remise;
- b) la communication est réputée avoir été reçue le jour d'une telle remise.

(2) Les dispositions du présent article ne s'appliquent pas aux communications échangées dans le cadre de procédures judiciaires.

Article 4 *Renonciation au droit de faire objection*

Est réputée avoir renoncé à son droit de faire objection toute partie qui, bien qu'elle sache que l'une des dispositions de la présente loi auxquelles les parties peuvent déroger, ou toute condition énoncée dans la convention d'arbitrage, n'a pas été respectée, poursuit néanmoins l'arbitrage sans formuler d'objection promptement ou, s'il est prévu un délai à cet effet, dans ledit délai.

Article 5 *Domaine de l'intervention des tribunaux*

Pour toutes les questions régies par la présente loi, les tribunaux ne peuvent intervenir que dans les cas où celle-ci le prévoit.

Article 6 *Tribunal ou autre autorité chargé de certaines fonctions d'assistance et de contrôle dans le cadre de l'arbitrage*

Les fonctions mentionnées aux articles 11 (3), 11 (4), 13 (3), 14, 16 (3) et 34 (2) sont confiées à la Cour suprême ou à la Cour de district.

CHAPITRE II. CONVENTION D'ARBITRAGE

Article 7 *Définition et forme de la convention d'arbitrage*

- (1)** Une «convention d'arbitrage» est une convention par laquelle les parties

arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(2) The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

Article 8. *Arbitration agreement and substantive claim before court*

(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(2) Where an action referred to in paragraph (1) of this article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

Article 9. *Arbitration agreement and interim measures by court*

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

CHAPTER III. COMPOSITION OF ARBITRAL TRIBUNAL

Article 10. *Number of arbitrators*

(1) The parties are free to determine the number of arbitrators.

(2) Failing such determination, the number of arbitrators shall be three.

Article 11. *Appointment of arbitrators*

(1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.

(3) Failing such agreement,

(a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6;

décident de soumettre à l'arbitrage, tous les différends ou certains des différends qui se sont élevés ou pourraient s'élever entre elles au sujet d'un rapport de droit déterminé, contractuel ou non contractuel. Une convention d'arbitrage peut prendre la forme d'une clause compromissoire dans un contrat ou d'une convention séparée.

(2) La convention d'arbitrage doit se présenter sous forme écrite. Une convention est sous forme écrite si elle est consignée dans un document signé par les parties ou dans un échange de lettres, de communications télex, de télégrammes ou de tout autre moyen de télécommunications qui en atteste l'existence, ou encore dans l'échange d'une conclusion en demande et d'une conclusion en réponse dans lequel l'existence d'une telle convention est alléguée par une partie et n'est pas contestée par l'autre. La référence dans un contrat à un document contenant une clause compromissoire vaut convention d'arbitrage, à condition que ledit contrat soit sous forme écrite et que la référence soit telle qu'elle fasse de la clause une partie du contrat.

Article 8 *Convention d'arbitrage et actions intentées quant au fond devant un tribunal*

(1) Le tribunal saisi d'un différend sur une question faisant l'objet d'une convention d'arbitrage renverra les parties à l'arbitrage si l'une d'entre elles le demande au plus tard lorsqu'elle soumet ses premières conclusions quant au fond du différend, à moins qu'il ne constate que ladite convention est caduque, inopérante ou non susceptible d'être exécutée.

(2) Lorsque le tribunal est saisi d'une action visée au paragraphe (1) du présent article, la procédure arbitrale peut néanmoins être engagée ou poursuivie et une sentence peut être rendue en attendant que le tribunal ait statué.

Article 9 *Convention d'arbitrage et mesures provisoires prises par un tribunal*

La demande par une partie à un tribunal, avant ou pendant la procédure arbitrale, de mesures provisoires ou conservatoires et l'octroi de telles mesures par un tribunal ne sont pas incompatibles avec une convention d'arbitrage.

CHAPITRE III. COMPOSITION DU TRIBUNAL ARBITRAL

Article 10 *Nombre d'arbitres*

(1) Les parties sont libres de convenir du nombre d'arbitres.

(2) Faute d'une telle convention, il est nommé trois arbitres.

Article 11 *Nomination de l'arbitre ou des arbitres*

(1) Nul ne peut, en raison de sa nationalité, être empêché d'exercer des fonctions d'arbitre, sauf convention contraire des parties.

(2) Les parties sont libres de convenir de la procédure de nomination de l'arbitre ou des arbitres, sans préjudice des dispositions des paragraphes (4) et (5) du présent article.

(3) Faute d'une telle convention :

- a) en cas d'arbitrage par trois arbitres, chaque partie nomme un arbitre et les deux autres arbitres ainsi nommés choisissent le troisième arbitre; si une partie ne nomme pas un arbitre dans un délai de trente jours à compter de la réception d'une demande à cette fin émanant

- (b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.
- (4) Where, under an appointment procedure agreed upon by the parties:
 - (a) a party fails to act as required under such procedure; or
 - (b) the parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure; or
 - (c) a third party, including an institution, fails to perform any function entrusted to it under such procedure,

any party may request the court or other authority specified in article 6 to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

(5) A decision on a matter entrusted by paragraph (3) or (4) of this article to the court or other authority specified in article 6 shall be subject to no appeal. The court or other authority, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

Article 12. *Grounds for challenge*

(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

(2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

Article 13. *Challenge procedure*

(1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of paragraph (3) of this article.

(2) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in article 12 (2), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

de l'autre partie, ou si les deux arbitres ne s'accordent pas sur le choix du troisième arbitre dans un délai de trente jours à compter de leur désignation, la nomination est effectuée, sur la demande d'une partie, par le tribunal ou autre autorité visé à l'article 6;

- b) en cas d'arbitrage par un arbitre unique, si les parties ne peuvent s'accorder sur le choix de l'arbitre, celui-ci est nommé, sur la demande d'une partie, par le tribunal ou autre autorité visé à l'article 6.

(4) Lorsque, durant une procédure de nomination convenue par les parties :

- a) une partie n'agit pas conformément à ladite procédure; ou
- b) les parties, ou deux arbitres, ne peuvent parvenir à un accord conformément à ladite procédure; ou
- c) un tiers, y compris une institution, ne s'acquitte pas d'une fonction qui lui est conférée dans ladite procédure,

l'une ou l'autre partie peut prier le tribunal ou autre autorité visé à l'article 6 de prendre la mesure voulue, à moins que la convention relative à la procédure de nomination ne stipule d'autres moyens d'assurer cette nomination.

(5) La décision sur une question confiée au tribunal ou autre autorité visé à l'article 6, conformément aux paragraphes (3) et (4) du présent article, n'est pas susceptible de recours. Lorsqu'il nomme un arbitre, le tribunal tient compte de toutes les qualifications requises de l'arbitre par convention des parties et de toutes considérations propres à garantir la nomination d'un arbitre indépendant et impartial et, lorsqu'il nomme un arbitre unique ou un troisième arbitre, il tient également compte du fait qu'il peut être souhaitable de nommer un arbitre d'une nationalité différente de celle des parties.

Article 12 *Motifs de récusation*

(1) Lorsqu'une personne est pressentie en vue de sa nomination éventuelle en qualité d'arbitre, elle signale toutes circonstances de nature à soulever des doutes légitimes sur son impartialité ou sur son indépendance. À partir de la date de sa nomination et durant toute la procédure arbitrale, l'arbitre signale sans tarder de telles circonstances aux parties, à moins qu'il ne l'ait déjà fait.

(2) Un arbitre ne peut être récusé que s'il existe des circonstances de nature à soulever des doutes légitimes sur son impartialité ou son indépendance, ou si celui-ci ne possède pas les qualifications convenues par les parties. Une partie ne peut récuser l'arbitre qu'elle a nommé ou à la nomination duquel elle a participé que pour une cause dont elle a eu connaissance après cette nomination.

Article 13 *Procédure de récusation*

(1) Sous réserve des dispositions du paragraphe (3) du présent article, les parties sont libres de convenir de la procédure de récusation de l'arbitre.

(2) Faute d'un tel accord, la partie qui a l'intention de récuser un arbitre expose par écrit les motifs de la récusation au tribunal arbitral, dans un délai de quinze jours à compter de la date à laquelle elle a eu connaissance de la constitution du tribunal arbitral ou de la date à laquelle elle a eu connaissance des circonstances visées à l'article 12 (2). Si l'arbitre récusé ne se déporte pas ou que l'autre partie n'accepte pas la récusation, le tribunal arbitral se prononce sur la récusation.

(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request within thirty days after having received notice of the decision rejecting the challenge, the court or other authority specified in article 6 to decide on the challenge, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

Article 14. *Failure or impossibility to act*

(1) If an arbitrator becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this article or article 13(2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this article or article 12(2).

Article 15. *Appointment of substitute arbitrator*

Where the mandate of an arbitrator terminates under article 13 or 14 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

CHAPTER IV. JURISDICTION OF ARBITRAL TRIBUNAL

Article 16. *Competence of arbitral tribunal to rule on its jurisdiction*

(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(3) The arbitral tribunal may rule on a plea referred to in paragraph (2) of this article either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the court specified in article 6 to decide the matter, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

(3) Si la récusation ne peut être obtenue selon la procédure convenue par les parties ou en application du paragraphe (2) du présent article, la partie récusante peut, dans un délai de trente jours après avoir eu communication de la décision rejetant la récusation, prier le tribunal ou autre autorité visé à l'article 6 de prendre sur la récusation une décision qui ne sera pas susceptible de recours; dans l'attente de cette décision, le tribunal arbitral y compris l'arbitre récusé, peut poursuivre la procédure arbitrale et rendre une sentence.

Article 14 *Carence ou incapacité d'un arbitre*

(1) Lorsqu'un arbitre se trouve dans l'impossibilité de droit ou de fait de remplir sa mission ou, pour d'autres raisons, ne s'acquitte pas de ses fonctions dans un délai raisonnable, son mandat prend fin s'il se déporte ou si les parties conviennent d'y mettre fin. Au cas où il subsiste un désaccord quant à l'un quelconque de ces motifs, l'une ou l'autre partie peut prier le tribunal ou autre autorité visé à l'article 6 de prendre une décision, qui ne sera pas susceptible de recours, sur la cessation du mandat.

(2) Le fait qu'en application du présent article ou de l'article 13 (2), un arbitre se déporte ou qu'une partie accepte que le mandat d'un arbitre prenne fin n'implique pas reconnaissance des motifs mentionnés à l'article 12 (2) ou dans le présent article.

Article 15 *Nomination d'un arbitre remplaçant*

Lorsqu'il est mis fin au mandat d'un arbitre conformément à l'article 13 ou 14, ou lorsque celui-ci se déporte pour toute autre raison, ou lorsque son mandat est révoqué par accord des parties ou dans tout autre cas où il est mis fin à son mandat, un arbitre remplaçant est nommé conformément aux règles qui étaient applicables à la nomination de l'arbitre remplacé.

CHAPITRE IV. COMPÉTENCE DU TRIBUNAL ARBITRAL

Article 16 *Compétence du tribunal arbitral pour statuer sur sa propre compétence*

(1) Le tribunal arbitral peut statuer sur sa propre compétence, y compris sur toute exception relative à l'existence ou à la validité de la convention d'arbitrage. À cette fin, une clause compromissoire faisant partie d'un contrat est considérée comme une convention distincte des autres clauses du contrat. La constatation de nullité du contrat par le tribunal arbitral n'entraîne pas de plein droit la nullité de la clause compromissoire.

(2) L'exception d'incompétence du tribunal arbitral peut être soulevée au plus tard lors du dépôt des conclusions en défense. Le fait pour une partie d'avoir désigné un arbitre ou d'avoir participé à sa désignation ne la prive pas du droit de soulever cette exception. L'exception prise de ce que la question litigieuse excéderait les pouvoirs du tribunal arbitral est soulevée dès que la question alléguée comme excédant ses pouvoirs est soulevée pendant la procédure arbitrale. Le tribunal arbitral peut, dans l'un ou l'autre cas, admettre une exception soulevée après le délai prévu, s'il estime que le retard est dû à une cause valable.

(3) Le tribunal arbitral peut statuer sur l'exception visée au paragraphe (2) du présent article soit en la traitant comme une question préalable, soit dans sa sentence sur le fond. Si le tribunal arbitral détermine, à titre de question préalable, qu'il est compétent, l'une ou l'autre partie peut, dans un délai de trente jours après avoir été avisée de cette décision, demander au tribunal visé à l'article 6 de rendre une décision sur ce point, laquelle ne sera pas susceptible de recours; en attendant qu'il soit statué sur cette demande, le tribunal arbitral est libre de poursuivre la procédure arbitrale et de rendre une sentence.

Article 17. *Power of arbitral tribunal to order interim measures*

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with such measure.

CHAPTER V. CONDUCT OF ARBITRAL PROCEEDINGS**Article 18.** *Equal treatment of parties*

The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

Article 19. *Determination of rules of procedure*

(1) Subject to the provisions of this Law, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this Law, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

Article 20. *Place of arbitration*

(1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

Article 21. *Commencement of arbitral proceedings*

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Article 22. *Language*

(1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Article 17 *Pouvoir du tribunal arbitral d'ordonner des mesures provisoires*

Sauf convention contraire des parties, le tribunal arbitral peut, à la demande d'une partie, ordonner à toute partie de prendre toute mesure provisoire ou conservatoire qu'il juge nécessaire en ce qui concerne l'objet du différend. Le tribunal arbitral peut, à ce titre, exiger de toute partie le versement d'une provision appropriée.

CHAPITRE V. CONDUITE DE LA PROCÉDURE ARBITRALE**Article 18** *Égalité de traitement des parties*

Les parties doivent être traitées sur un pied d'égalité et chaque partie doit avoir toute possibilité de faire valoir ses droits.

Article 19 *Détermination des règles de procédure*

(1) Sous réserve des dispositions de la présente loi, les parties sont libres de convenir de la procédure à suivre par le tribunal arbitral.

(2) Faute d'une telle convention, le tribunal arbitral peut, sous réserve des dispositions de la présente loi, procéder à l'arbitrage comme il le juge approprié. Les pouvoirs conférés au tribunal arbitral comprennent celui de juger de la recevabilité, de la pertinence et de l'importance de toute preuve produite.

Article 20 *Lieu de l'arbitrage*

(1) Les parties sont libres de décider du lieu de l'arbitrage. Faute d'une telle décision, ce lieu est fixé par le tribunal arbitral, compte tenu des circonstances de l'affaire, y compris les convenances des parties.

(2) Nonobstant les dispositions du paragraphe (1) du présent article, le tribunal arbitral peut, sauf convention contraire des parties, se réunir en tout lieu qu'il jugera approprié pour l'organisation de consultations entre ses membres, l'audition des témoins, des experts ou des parties, ou pour l'inspection de marchandises, d'autres biens ou de pièces.

Article 21 *Début de la procédure arbitrale*

Sauf convention contraire des parties, la procédure arbitrale concernant un différend déterminé débute à la date à laquelle la demande de soumission de ce différend à l'arbitrage est reçue par le défendeur.

Article 22 *Langue*

(1) Les parties sont libres de convenir de la langue ou des langues à utiliser dans la procédure arbitrale. Faute d'un tel accord, le tribunal arbitral décide de la langue ou des langues à utiliser dans la procédure. Cet accord ou cette décision, à moins qu'il n'en soit convenu ou décidé autrement, s'applique à toute déclaration écrite d'une partie, à toute procédure orale et à toute sentence, décision ou autre communication du tribunal arbitral.

(2) Le tribunal arbitral peut ordonner que toute pièce soit accompagnée d'une traduction dans la langue ou les langues convenues par les parties ou choisies par le tribunal arbitral.

Article 23. *Statements of claim and defence*

(1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(2) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

Article 24. *Hearings and written proceedings*

(1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property or documents.

(3) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

Article 25. *Default of a party*

Unless otherwise agreed by the parties, if, without showing sufficient cause,

- (a) the claimant fails to communicate his statement of claim in accordance with article 23 (1), the arbitral tribunal shall terminate the proceedings;
- (b) the respondent fails to communicate his statement of defence in accordance with article 23 (1), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;
- (c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

Article 26. *Expert appointed by arbitral tribunal*

(1) Unless otherwise agreed by the parties, the arbitral tribunal,

- (a) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;
- (b) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

Article 23 *Conclusions en demande et en défense*

(1) Dans le délai convenu par les parties ou fixé par le tribunal arbitral, le demandeur énonce les faits au soutien de sa demande, les points litigieux et l'objet de la demande et le défendeur énonce ses défenses à propos de ces questions, à moins que les parties ne soient autrement convenues des indications devant figurer dans les conclusions. Les parties peuvent accompagner leurs conclusions de toutes pièces qu'elles jugeront pertinentes ou y mentionner les pièces ou autres moyens de preuve qu'elles produiront.

(2) Sauf convention contraire des parties, l'une ou l'autre partie peut modifier ou compléter sa demande ou ses défenses, au cours de la procédure arbitrale, à moins que le tribunal arbitral considère ne pas devoir autoriser un tel amendement en raison du retard avec lequel il est formulé.

Article 24 *Procédure orale et procédure écrite*

(1) Sauf convention contraire des parties, le tribunal arbitral décide si la procédure doit comporter des phases orales pour la production de preuves ou pour l'exposé oral des arguments, ou si elle se déroulera sur pièces. Cependant, à moins que les parties n'aient convenu qu'il n'y aura pas de procédure orale, le tribunal arbitral organise une telle procédure à un stade approprié de la procédure arbitrale, si une partie lui en fait la demande.

(2) Les parties recevront suffisamment longtemps à l'avance notification de toutes audiences et de toutes réunions du tribunal arbitral tenues aux fins de l'inspection de marchandises, d'autres biens ou de pièces.

(3) Toutes les conclusions, pièces ou informations que l'une des parties fournit au tribunal arbitral doivent être communiquées à l'autre partie. Tout rapport d'expert ou document présenté en tant que preuve sur lequel le tribunal pourrait s'appuyer pour statuer doit également être communiqué aux parties.

Article 25 *Défaut d'une partie*

Sauf convention contraire des parties, si, sans invoquer d'empêchement légitime :

- a) le demandeur ne présente pas sa demande conformément à l'article 23 (1), le tribunal arbitral met fin à la procédure arbitrale;
- b) le défendeur ne présente pas ses défenses conformément à l'article 23 (1), le tribunal arbitral poursuit la procédure arbitrale sans considérer ce défaut en soi comme une acceptation des allégations du demandeur;
- c) l'une des parties omet de comparaître à l'audience ou de produire des documents, le tribunal arbitral peut poursuivre la procédure et statuer sur la base des éléments de preuve dont il dispose.

Article 26 *Expert nommé par le tribunal arbitral*

(1) Sauf convention contraire des parties, le tribunal arbitral :

- a) peut nommer un ou plusieurs experts chargés de lui faire rapport sur les points précis qu'il déterminera;
- b) peut demander à une partie de fournir à l'expert tous renseignements appropriés ou de lui soumettre ou de lui rendre accessibles, aux fins d'examen, toutes pièces ou toutes marchandises ou autres biens pertinents.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

Article 27. *Court assistance in taking evidence*

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of this State assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.

CHAPTER VI. MAKING OF AWARD AND TERMINATION OF PROCEEDINGS

Article 28. *Rules applicable to substance of dispute*

(1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.

(2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

(3) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized it to do so.

(4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Article 29. *Decision making by panel of arbitrators*

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

Article 30. *Settlement*

(1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(2) An award on agreed terms shall be made in accordance with the provisions of article 31 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

Article 31. *Form and contents of award*

(1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.

(2) Sauf convention contraire des parties, si une partie en fait la demande ou si le tribunal arbitral le juge nécessaire, l'expert, après présentation de son rapport écrit ou oral, participe à une audience à laquelle les parties peuvent l'interroger et faire venir en qualité de témoins des experts qui déposent sur les questions litigieuses.

Article 27 *Assistance des tribunaux pour l'obtention de preuves*

Le tribunal arbitral, ou une partie avec l'approbation du tribunal arbitral, peut demander à un tribunal compétent du présent État une assistance pour l'obtention de preuves. Le tribunal peut satisfaire à cette demande, dans les limites de sa compétence et conformément aux règles relatives à l'obtention de preuves.

CHAPITRE VI. PRONONCÉ DE LA SENTENCE ET CLÔTURE DE
LA PROCÉDURE

Article 28 *Règles applicables au fond du différend*

(1) Le tribunal arbitral tranche le différend conformément aux règles de droit choisies par les parties comme étant applicables au fond du différend. Toute désignation de la loi ou du système juridique d'un État donné est considérée, sauf indication contraire expresse, comme désignant directement les règles juridiques de fond de cet État et non ses règles de conflit de lois.

(2) À défaut d'une telle désignation par les parties, le tribunal arbitral applique la loi désignée par la règle de conflit de lois qu'il juge applicable en l'espèce.

(3) Le tribunal arbitral statue *ex aequo et bono* ou en qualité d'arbitre compositeur uniquement si les parties l'y ont expressément autorisé.

(4) Dans tous les cas, le tribunal arbitral décide conformément aux stipulations du contrat et tient compte des usages du commerce applicables à la transaction.

Article 29 *Prise de décisions par plusieurs arbitres*

Dans une procédure arbitrale comportant plus d'un arbitre, toute décision du tribunal arbitral est, sauf convention contraire des parties, prise à la majorité de tous ses membres. Toutefois, les questions de procédure peuvent être tranchées par un arbitre-président, si ce dernier y est autorisé par les parties ou par tous les membres du tribunal arbitral.

Article 30 *Règlement par accord des parties*

(1) Si, durant la procédure arbitrale, les parties s'entendent pour régler le différend, le tribunal arbitral met fin à la procédure arbitrale et, si les parties lui en font la demande et s'il n'y voit pas d'objection, constate le fait par une sentence arbitrale rendue par accord des parties.

(2) La sentence d'accord des parties est rendue conformément aux dispositions de l'article 31 et mentionne le fait qu'il s'agit d'une sentence. Une telle sentence a le même statut et le même effet que toute autre sentence prononcée sur le fond de l'affaire.

Article 31 *Forme et contenu de la sentence*

(1) La sentence est rendue par écrit et signée par l'arbitre ou les arbitres. Dans la procédure arbitrale comprenant plusieurs arbitres, les signatures de la majorité des membres du tribunal arbitral suffisent, pourvu que soit mentionnée la raison de l'omission des autres.

(2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under article 30.

(3) The award shall state its date and the place of arbitration as determined in accordance with article 20 (1). The award shall be deemed to have been made at that place.

(4) After the award is made, a copy signed by the arbitrators in accordance with paragraph (1) of this article shall be delivered to each party.

Article 32. *Termination of proceedings*

(1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with paragraph (2) of this article.

(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:

(a) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;

(b) the parties agree on the termination of the proceedings;

(c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of articles 33 and 34(4).

Article 33. *Correction and interpretation of award: additional award*

(1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:

(a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature;

(b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.

(2) The arbitral tribunal may correct any error of the type referred to in paragraph (1) (a) of this article on its own initiative within thirty days of the date of the award.

(3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.

(2) La sentence est motivée, sauf si les parties sont convenues que tel ne doit pas être le cas ou s'il s'agit d'une sentence rendue par accord des parties conformément à l'article 30.

(3) La sentence mentionne la date à laquelle elle est rendue, ainsi que le lieu de l'arbitrage déterminé conformément à l'article 20 (1). La sentence est réputée avoir été rendue audit lieu.

(4) Après le prononcé de la sentence, une copie signée par l'arbitre ou les arbitres conformément au paragraphe (1) du présent article en est remise à chacune des parties.

Article 32 *Clôture de la procédure*

(1) La procédure arbitrale est close par le prononcé de la sentence définitive ou par une ordonnance de clôture rendue par le tribunal arbitral conformément au paragraphe (2) du présent article.

(2) Le tribunal arbitral ordonne la clôture de la procédure arbitrale lorsque :

- a) le demandeur retire sa demande, à moins que le défendeur y fasse objection et que le tribunal arbitral reconnaisse qu'il a légitimement intérêt à ce que le différend soit définitivement réglé;
- b) les parties conviennent de clore la procédure;
- c) le tribunal arbitral constate que la poursuite de la procédure est, pour toute autre raison, devenue superflue ou impossible.

(3) Le mandat du tribunal arbitral prend fin avec la clôture de la procédure arbitrale, sous réserve des dispositions de l'article 33 et du paragraphe (4) de l'article 34.

Article 33 *Rectification et interprétation de la sentence et sentence additionnelle*

(1) Dans les trente jours qui suivent la réception de la sentence, à moins que les parties ne soient convenues d'un autre délai :

- a) une des parties peut, moyennant notification à l'autre, demander au tribunal arbitral de rectifier dans le texte de la sentence toute erreur de calcul, toute erreur matérielle ou typographique ou toute erreur de même nature;
- b) si les parties en sont convenues, une partie peut, moyennant notification à l'autre, demander au tribunal arbitral de donner une interprétation d'un point ou passage précis de la sentence.

Si le tribunal arbitral considère que la demande est justifiée, il fait la rectification ou donne l'interprétation dans les trente jours qui suivent la réception de la demande. L'interprétation fait partie intégrante de la sentence.

(2) Le tribunal arbitral peut, de son propre chef, rectifier toute erreur du type visé à l'alinéa a) du paragraphe (1) du présent article dans les trente jours qui suivent la date de la sentence.

(3) Sauf convention contraire des parties, l'une des parties peut, moyennant notification à l'autre, demander au tribunal arbitral, dans les trente jours qui suivent la réception de la sentence, de rendre une sentence additionnelle sur des chefs de demande exposés au cours de la procédure arbitrale mais omis dans la sentence. S'il juge la demande justifiée, le tribunal arbitral complète sa sentence dans les soixante jours.

(4) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award under paragraph (1) or (3) of this article.

(5) The provisions of article 31 shall apply to a correction or interpretation of the award or to an additional award.

CHAPTER VII. RECOURSE AGAINST AWARD

Article 34. *Application for setting aside as exclusive recourse against arbitral award*

(1) Recourse to a court against an arbitral award may be made only by an application for setting aside in accordance with paragraphs (2) and (3) of this article.

(2) An arbitral award may be set aside by the court specified in article 6 only if:

(a) the party making the application furnishes proof that:

- (i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of this State, or
- (ii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case, or
- (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside, or
- (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Law from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Law; or

(b) the court finds that:

- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of this State, or
- (ii) the award is in conflict with the public policy of this State.

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under article 33, from the date on which that request had been disposed of by the arbitral tribunal.

(4) Le tribunal arbitral peut prolonger, si besoin est, le délai dont il dispose pour rectifier, interpréter ou compléter la sentence en vertu du paragraphe (1) ou (3) du présent article.

(5) Les dispositions de l'article 31 s'appliquent à la rectification ou l'interprétation de la sentence ou à la sentence additionnelle.

CHAPITRE VII. RECOURS CONTRE LA SENTENCE

Article 34 *La demande d'annulation comme recours exclusif contre la sentence arbitrale*

(1) Le recours formé devant un tribunal contre une sentence arbitrale ne peut prendre la forme que d'une demande d'annulation conformément aux paragraphes (2) et (3) du présent article.

(2) La sentence arbitrale ne peut être annulée par le tribunal visé à l'article 6 que si :

a) la partie en faisant la demande apporte la preuve :

- (i) qu'une partie à la convention d'arbitrage visée à l'article 7 était frappée d'une incapacité; ou que ladite convention n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, à défaut d'une indication à cet égard, en vertu de la loi du présent État, ou
- (ii) qu'elle n'a pas été dûment informée de la nomination d'un arbitre ou de la procédure arbitrale, ou qu'il lui a été impossible pour une autre raison de faire valoir ses droits, ou
- (iii) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions qui dépassent les termes du compromis ou de la clause compromissoire, étant entendu toutefois que, si les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, seule la partie de la sentence contenant des décisions sur les questions non soumises à l'arbitrage pourra être annulé, ou
- (iv) que la constitution du tribunal arbitral, ou la procédure arbitrale, n'a pas été conforme à la convention des parties, à condition que cette convention ne soit pas contraire à une disposition de la présente loi à laquelle les parties ne peuvent déroger, ou, à défaut d'une telle convention, qu'elle n'a pas été conforme à la présente loi; ou

b) le tribunal constate :

- (i) que l'objet du différend n'est pas susceptible d'être réglé par arbitrage conformément à la loi du présent État, ou
- (ii) que la sentence est contraire à l'ordre public du présent État.

(3) Une demande d'annulation ne peut être présentée après l'expiration d'un délai de trois mois à compter de la date à laquelle la partie présentant cette demande a reçu communication de la sentence ou, si une demande a été faite en vertu de l'article 33, à compter de la date à laquelle le tribunal arbitral a pris une décision sur cette demande.

(4) The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

CHAPTER VIII. RECOGNITION AND ENFORCEMENT OF AWARDS

Article 35. *Recognition and enforcement*

(1) An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the competent court, shall be enforced subject to the provisions of this article and of article 36.

(2) The party relying on an award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy thereof, and the original arbitration agreement referred to in article 7 or a duly certified copy thereof. If the award or agreement is not made in an official language of this State, the party shall supply a duly certified translation thereof into such language.

Article 36. *Grounds for refusing recognition or enforcement*

(1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:

- (a) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:
 - (i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made, or
 - (ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case, or
 - (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced, or
 - (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place, or
 - (v) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or

(4) Lorsqu'il est prié d'annuler une sentence, le tribunal peut, le cas échéant et à la demande d'une partie, suspendre la procédure d'annulation pendant une période dont il fixe la durée afin de donner au tribunal arbitral la possibilité de reprendre la procédure arbitrale ou de prendre toute autre mesure que ce dernier juge susceptible d'éliminer les motifs d'annulation.

CHAPITRE VIII. RECONNAISSANCE ET EXÉCUTION DES SENTENCES

Article 35 *Reconnaissance et exécution*

(1) La sentence arbitrale, quel que soit le pays où elle a été rendue, est reconnue comme ayant force obligatoire et, sur requête adressée par écrit au tribunal compétent, est exécutée sous réserve des dispositions du présent article et de l'article 36.

(2) La partie qui invoque la sentence ou qui en demande l'exécution doit en fournir l'original dûment authentifié ou une copie certifiée conforme, ainsi que l'original de la convention d'arbitrage mentionnée à l'article 7 ou une copie certifiée conforme. Si ladite sentence ou ladite convention n'est pas rédigée dans une langue officielle du présent État, la partie en produira une traduction dûment certifiée dans cette langue.

Article 36 *Motifs de refus de la reconnaissance ou de l'exécution*

(1) La reconnaissance ou l'exécution d'une sentence arbitrale, quel que soit le pays où elle a été rendue, ne peut être refusée que :

a) sur la demande de la partie contre laquelle elle est invoquée, si ladite partie présente au tribunal compétent auquel est demandée la reconnaissance ou l'exécution la preuve :

- (i) qu'une partie à la convention d'arbitrage visée à l'article 7 était frappée d'une incapacité; ou que ladite convention n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, à défaut d'une indication à cet égard, en vertu de la loi du pays où la sentence a été rendue, ou
- (ii) que la partie contre laquelle la sentence est invoquée n'a pas été dûment informée de la désignation d'un arbitre ou de la procédure arbitrale, ou qu'il lui a été impossible pour une autre raison de faire valoir ses droits, ou
- (iii) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions qui dépassent les termes du compromis ou de la clause compromissoire, étant entendu toutefois que, si les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, seule la partie de la sentence contenant des décisions sur les questions soumises à l'arbitrage pourra être reconnue et exécutée, ou
- (iv) que la constitution du tribunal arbitral, ou la procédure arbitrale, n'a pas été conforme à la convention des parties ou, à défaut d'une telle convention, à la loi du pays où l'arbitrage a eu lieu, ou
- (v) que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par un tribunal du pays dans lequel, ou en vertu de la loi duquel elle a été rendue; ou

(b) if the court finds that:

- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of this State, or
- (ii) the recognition or enforcement of the award would be contrary to the public policy of this State.

(2) If an application for setting aside or suspension of an award has been made to a court referred to in paragraph (1) (a) (v) of this article, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

b) si le tribunal constate que :

(i) l'objet du différend n'est pas susceptible d'être réglé par arbitrage conformément à la loi du présent État, ou que

(ii) la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public du présent État.

(2) Si une demande d'annulation ou de suspension d'une sentence a été présentée à un tribunal visé au sous-alinéa (1) a) (v) du présent article, le tribunal auquel est demandée la reconnaissance ou l'exécution peut, s'il le juge approprié, surseoir à statuer et peut aussi, à la requête de la partie demandant la reconnaissance ou l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables.

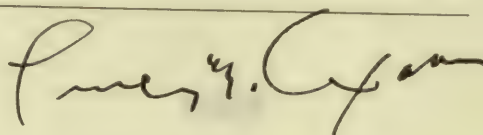
Bill 9

(Chapter 59
Statutes of Ontario, 1988)

**An Act permitting
Trustees
and other Persons
to dispose of
South African investments**

The Hon. I. Scott
Attorney General

1 st Reading	November 5th, 1987
2 ^d Reading	December 14th, 1988
3 ^d Reading	December 15th, 1988
Royal Assent	December 15th, 1988

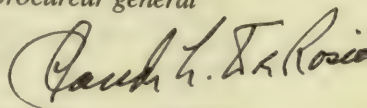


Projet de loi 9

(Chapitre 59
Lois de l'Ontario de 1988)

**Loi permettant
aux fiduciaires
et à d'autres personnes
d'aliéner
les placements sud-africains**

L'honorable I. Scott
procureur général



CLERK
LEGISLATIVE ASSEMBLY

1 ^{re} lecture	5 novembre 1987
2 ^e lecture	14 décembre 1988
3 ^e lecture	15 décembre 1988
sanction royale	15 décembre 1988

Bill 9

1987

**An Act permitting
Trustees and other Persons
to dispose of South African Investments**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“organisme
de charité
enregistré”
R.S.C. 1952,
c. 148

“registered charity” means a registered charity within the meaning of paragraph 110 (8) (c) of the *Income Tax Act* (Canada);

“Afrique du
Sud”

“South Africa” means the Republic of South Africa;

“placement
sud-africain”

“South African investment” means,

- (a) an investment in shares of a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (b) an investment in shares of a corporation that has a substantial interest in a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (c) an investment in shares of a corporation a substantial interest in which is held by one or more of the following,
 - (i) corporations that are incorporated under the laws of South Africa,
 - (ii) corporations that carry on business in South Africa,

Projet de loi 9

1987

**Loi permettant
aux fiduciaires et à d'autres personnes
d'aliéner les placements sud-africains**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«action assortie du droit de vote» Action d'une catégorie des actions d'une compagnie assortie d'un droit de vote absolu ou assortie d'un droit de vote en raison de la survenance d'une éventualité qui s'est produite et se poursuit. «voting share»

«Afrique du Sud» La République d'Afrique du Sud. «South Africa»

«fiduciaire» Fiduciaire d'une fiducie. S'entend en outre d'une personne qui est responsable de la gestion et du placement de biens d'un organisme de charité enregistré ou d'une caisse de retraite. «trustee»

«organisme de charité enregistré» Organisme de charité enregistré au sens de l'alinéa 110 (8) c) de la *Loi de l'impôt sur le revenu* (Canada). «registered charity»
S.R.C. 1952, chap. 148

«placement sud-africain» Placement qui, selon le cas : «South African investment»

- a) est effectué dans des actions d'une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- b) est effectué dans des actions d'une compagnie qui a une participation importante dans une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;

(iii) persons who are citizens of South Africa or who ordinarily reside there,

- (d) an investment in shares of a corporation a substantial interest in which is held by a corporation that also holds a substantial interest in another corporation that is incorporated under the laws of South Africa or that carries on business in South Africa,
- (e) an investment in bonds, debentures or other evidences of indebtedness issued or guaranteed by the Government of South Africa or by a corporation whose shares are a South African investment under clause (a), (b), (c) or (d),
- (f) any other investment that has a substantial connection with South Africa;

“fiduciaire” “trustee” means a trustee of a trust and includes a person who is responsible for investing and managing the assets of a registered charity or a pension fund;

“action assortie du droit de vote” “voting share” means a share of a class of shares of a corporation that carries voting rights under all circumstances or under some circumstances that have occurred and are continuing.

Substantial interest (2) A person shall be deemed to have a substantial interest in a corporation if the person beneficially owns or controls 10 per cent or more of the issued and outstanding voting shares in the corporation.

Application of Act **2.** This Act applies to all trusts, registered charities and pension funds.

Trustee not liable R.S.O. 1980, c. 512 **3.** Despite the *Trustee Act* or any other law, a trustee who acts in accordance with this Act and in a reasonably prudent manner does not commit a breach of statutory or other legal duty by,

- (a) disposing of a South African investment even if the value of the property for which the trustee is responsible decreases or fails to increase sufficiently as a result; or

- c) est effectué dans des actions d'une compagnie dans laquelle une ou plusieurs des personnes suivantes ont une participation importante :
 - (i) des compagnies qui sont constituées en vertu des lois de l'Afrique du Sud,
 - (ii) des compagnies qui font affaire en Afrique du Sud,
 - (iii) des citoyens de l'Afrique du Sud ou des personnes qui ont leur résidence ordinaire en Afrique du Sud;
- d) est effectué dans des actions d'une compagnie dans laquelle une participation importante appartient à une compagnie qui a également une participation importante dans une autre compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- e) est effectué dans des obligations, débentures ou autres titres de créance émis ou garantis par le gouvernement de l'Afrique du Sud ou par une compagnie dont les actions constituent un placement sud-africain aux termes des alinéas a), b), c) ou d);
- f) a, par ailleurs, des liens étroits avec l'Afrique du Sud.

(2) Une personne est réputée avoir une participation importante dans une compagnie si elle est propriétaire bénéficiaire ou qu'elle a le contrôle de 10 pour cent ou plus des actions de la compagnie émises, en circulation et assorties du droit de vote.

Participation importante

2 La présente loi s'applique aux fiducies, aux organismes de charité enregistrés et aux caisses de retraite.

Champ d'application

3 Malgré la *Loi sur les fiduciaires* et toute autre loi, le fiduciaire qui agit conformément à la présente loi et fait preuve d'une prudence normale ne manque pas au devoir que lui impose la loi :

Absence de responsabilité
L.R.O. 1980, chap. 512

- a) s'il aliène un placement sud-africain, même s'il en résulte une diminution ou une augmentation insuffisante de la valeur des biens dont il a la responsabilité;

(b) refusing to acquire a South African investment.

Definition

4.—(1) In this section, “identifiable beneficiary” means an existing person who can be clearly identified as a beneficiary of a trust or a pension fund and does not include a person who has been declared mentally incompetent.

Consent of
beneficiaries
required

(2) If there are no more than 100 identifiable beneficiaries of a trust or pension fund, section 3 applies only if the trustee gives written notice to the identifiable beneficiaries of the intended transaction and the trustee does not receive, within sixty days after giving the written notice, notice of opposition to the transaction from a majority of identifiable beneficiaries whose combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.

Idem

(3) If there are more than 100 identifiable beneficiaries of a trust or pension fund, section 3 applies only if the trustee has made inquiries and has reasonable grounds to believe that a majority of them would consent to the intended transaction and that their combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.

Consent
of minor

(4) A person who has lawful custody of an identifiable beneficiary who is less than eighteen years of age may give or refuse consent on the beneficiary’s behalf.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *South African Trust Investments Act, 1988*.

- b) s'il refuse d'investir ces biens dans un placement sud-africain.

4 (1) Dans le présent article, «bénéficiaire identifiable» s'entend d'une personne existante qui peut être identifiée avec exactitude en tant que bénéficiaire d'une fiducie ou d'une caisse de retraite. Est toutefois exclue la personne qui fait l'objet d'une déclaration d'incapacité mentale.

Définition

(2) Lorsqu'une fiducie ou une caisse de retraite n'a pas plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si le fiduciaire leur donne un avis écrit de l'opération projetée et qu'il ne reçoit pas, dans les soixante jours de l'avis écrit, un avis d'opposition à l'opération provenant d'une majorité des bénéficiaires identifiables dont l'intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse.

Consentement
des
bénéficiaires

(3) Lorsqu'une fiducie ou une caisse de retraite a plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si le fiduciaire, s'étant renseigné, a des motifs raisonnables de croire qu'une majorité d'entre eux donneraient leur consentement à l'opération projetée et que leur intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse.

Idem

(4) Une personne qui a la garde légitime d'un bénéficiaire identifiable âgé de moins de dix-huit ans peut donner ou refuser le consentement au nom du bénéficiaire.

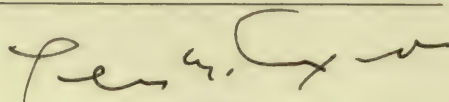
Consentement
du mineur

5 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

6 Le titre abrégé de la présente loi est *Loi de 1988 sur les placements sud-africains détenus en fiducie*.

Titre abrégé




Bill 11

*(Chapter 1
Statutes of Ontario, 1988)*

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	November 9th, 1987
<i>2nd Reading</i>	November 30th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

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Bill 11

1987

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.**—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$1,600,000,000.

Loans up to
\$1,600,000,000

R.S.O. 1980,
c. 161
- (2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

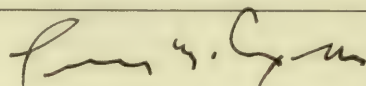
1983, c. 84

R.S.O. 1980,
c. 348
- 2.** No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1988.

Limitation
- 3.** This Act comes into force on the day it receives Royal Assent.

Commence-
ment
- 4.** The short title of this Act is the *Ontario Loan Act*, 1988.

Short title



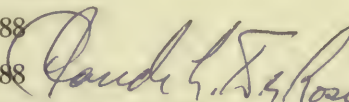
Bill 19

(Chapter 2
Statutes of Ontario, 1988)

An Act to revise the Race Tracks Tax Act

The Hon. B. Grandmaître
Minister of Revenue

<i>1st Reading</i>	November 16th, 1987
<i>2nd Reading</i>	December 9th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 19

1987

An Act to revise the Race Tracks Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“assessment” includes a reassessment;

“bet” means a bet placed under the system known as pari-mutuel wagering upon a race run at a race meeting;

“Minister” means the Minister of Revenue;

“operator” means a person who,

(a) operates a race course,

(b) conducts a race meeting, or

(c) is in any manner the custodian or depository of money that is staked or deposited in the placing of a bet upon a race run at a race meeting;

“person”, in addition to its meaning in the *Interpretation Act*, includes a partnership, an unincorporated association or club and an agricultural society constituted under the *Agricultural Societies Act*;

R.S.O. 1980,
c. 219

R.S.O. 1980,
c. 14

“prescribed” means prescribed by the regulations;

“race meeting” means a series of horse races conducted by an operator;

“regulations” means the regulations made under this Act;

“Treasurer” means the Treasurer of Ontario and Minister of Economics;

“triator bet” means a bet in which the person placing the bet undertakes to select in the exact order of finish the first three horses to finish in a race.

Tax rate

2. Every person who places a bet in Ontario upon a race run at a race meeting held in Ontario or elsewhere shall pay to Her Majesty in right of Ontario a tax equal to,

- (a) 9 per cent of the amount of money deposited by the person with the operator at the time he or she places a triactor bet; and
- (b) 7 per cent of the amount of money deposited by the person with the operator at the time he or she places a bet other than a triactor bet.

Tax collection

3.—(1) Every operator shall collect the tax under section 2 as agent of Her Majesty in right of Ontario from the person placing the bet by deducting it from the money deposited with the operator by the person placing the bet before recording and applying the money in the placing of the bet.

Duties of an operator

(2) Every operator shall,

- (a) be deemed to hold all amounts the operator collects under this Act in trust for Her Majesty in right of Ontario;
- (b) keep all amounts collected under this Act separate and apart from the operator's own moneys; and
- (c) remit all amounts collected under this Act to the Treasurer in the manner and at the time prescribed.

Interest on unremitted tax

(3) If an operator fails to remit the tax collected by the operator under this Act to the Treasurer at the time prescribed, the operator is liable to pay to the Treasurer interest on the unremitted tax at the prescribed rate or rates from the day the tax should have been remitted to the day on which the tax is remitted.

Tax return

(4) Every operator required to collect tax under this Act shall submit a return accounting for the tax collected to the Minister for the period and at the time prescribed.

Extended time for making returns

(5) The Minister may enlarge the time for making any return before or after the time prescribed for making it.

(6) No person acting as an agent of Her Majesty in right of Ontario under this section shall thus be made ineligible as a member of the Assembly.

Member of
Assembly

4.—(1) Every operator shall keep records and books of account of such nature and in such manner as is prescribed.

Records and
books of
account

(2) Records and books of account required to be kept under subsection (1) shall be kept,

Location of
records and
books of
account

(a) at the operator's place of business or residence in Ontario; or

(b) at a place in Ontario or elsewhere approved in writing by the Minister, under any terms and conditions the Minister may impose.

(3) If, in the opinion of the Minister, an operator fails to keep adequate records and books of account for the purposes of this Act, the Minister may, by notice in writing, require the operator to keep, and the operator shall keep, such records and books of account as are specified in the notice.

Requirement
by Minister
to keep
records

(4) Every operator shall retain all records and books of account, together with every account and voucher necessary to verify the information contained therein, until such time as all prescribed terms or conditions have been met.

Records
retention
period

5.—(1) Any person authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter any premises or place where an operator carries on business or keeps books and records and may,

Investigations

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates to or may relate to the tax imposed by this Act or any return required under this Act;

(b) examine any property, process or matter that, in his or her opinion, may assist in determining or ascertaining,

(i) the information that is or should be in the books and records,

(ii) the amount of any tax imposed by this Act, or

(iii) whether or not a return is required under this Act; and

- (c) require the operator or the operator's employees or agents to give all reasonable assistance with the audit or examination and to answer all proper questions relating to the audit or examination either orally or, if so required in writing, on oath or by statutory declaration and for that purpose may require that person to attend at the premises or place.

Obstruction

(2) No person shall obstruct or interfere with any person authorized by the Minister under subsection (1) in the exercise of his or her powers under this section.

Demand for information

6. For the purpose of obtaining any information that the Minister considers necessary for the purposes of this Act, the Minister may demand from any person such information as is indicated in a letter delivered personally or sent by registered or certified mail to the person, and the person shall furnish to the Minister all such information that the person has in his or her personal possession or under his or her control, in writing, within such reasonable period of time after the delivery or sending of the letter as is stipulated therein.

Assessment of tax collected

7.—(1) Where an operator fails to submit a return or fails to remit amounts collected under this Act as required under this Act or the regulations, or if the return is not substantiated by the operator's records, the Minister may make an assessment of the tax collected by the operator at any time and such assessed amount shall be deemed to be the tax collected by the operator.

Idem

(2) The Minister is not bound by a return submitted or information furnished by or on behalf of an operator and may, whether or not a return has been submitted, make an assessment of the tax collected by the operator at any time.

Continuing liability

(3) Liability to remit tax collected under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Notice of assessment

(4) Where the Minister makes an assessment under this section or section 8, the Minister shall serve by prepaid mail or by personal service a notice of assessment on the operator and the operator shall, within thirty days of the day of mailing or of personal service of the notice of assessment, remit to the Treasurer all amounts assessed and not previously paid or remitted by the operator, together with any interest thereon

payable under subsection 3 (3), whether or not an objection to or appeal from the assessment is outstanding.

(5) Where in the opinion of the Minister an operator is attempting to avoid payment of an amount assessed under this Act, the Minister may, notwithstanding subsection (4), direct that all amounts set out in the notice of assessment be paid forthwith.

Payment
forthwith

(6) Any assessment made under this section or section 8, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Assessment
valid and
binding

8.—(1) Every operator who fails to collect tax as required under this Act shall pay a penalty, when assessed therefor, equal to the amount of tax that the operator failed to collect.

Penalty for
non-
collection
of tax

(2) Every operator who fails to submit a return or fails to remit the tax collected as required by this Act and the regulations shall pay a penalty, when assessed therefor, equal to the greater of,

Penalty for
failure to
submit return
or to remit
tax

(a) \$25; and

(b) 10 per cent of the amount of tax collected and not remitted.

(3) Where the Minister is satisfied that an operator's failure to collect the tax that should have been collected under this Act is attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the operator, in lieu of any penalty that may be assessable under subsection (1), equal to the aggregate of the amount of tax the operator failed to collect and the greater of,

Where tax
not collected
because of
neglect,
fraud, etc.

(a) \$100; and

(b) 25 per cent of the amount of tax the operator failed to collect.

(4) No penalty may be assessed under subsection (1) or (2) more than three years after the date when the tax was required to be collected under this Act, the operator was required to submit a return under this Act and the regulations or the operator was required to remit the tax under this Act, as the case may be.

Penalty
assessment
time limit

Idem

(5) A penalty under subsection (3) may be assessed more than three years after the date when the tax was required to be collected under this Act.

Interest

(6) Any penalty assessed by the Minister under this section shall, if it is not paid within the time provided in subsection 7 (4), bear interest, at such rate as is prescribed, calculated from thirty days after the day of mailing or of personal service of the notice of assessment of the penalty until the day of payment.

Surety bond

9.—(1) The Minister may require an operator to deposit with the Treasurer a bond by way of cash or other security satisfactory to the Minister in an amount to be determined by the Minister.

Disposal of
surety bond

(2) Where an operator who has deposited a bond with the Treasurer under subsection (1) has failed to collect or remit tax as required under this Act and the regulations, the Minister may apply the bond in whole or in part to the amount that should have been collected or remitted and shall forthwith give written notice thereof to the operator by registered mail or personal service.

Recovery of
tax

10.—(1) Upon default of payment by an operator of any amount payable under this Act, the Minister may,

- (a) bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or the Minister's name of office and may be continued by a successor of the Minister in office as if no change had occurred and shall be tried without a jury;
- (b) issue a warrant directed to the sheriff of any county or district in which any property of the operator is located or situate for the amount owing by the operator, together with interest thereon from the date of the issue of the warrant and the fees and expenses of the sheriff, and the warrant has the same force and effect as a writ of seizure and sale issued out of the Supreme Court.

Idem

(2) The use of any remedy provided by subsection (1) does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of amounts due under this Act are in addition to any other remedies existing by law, and no

action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise.

11. The provisions of sections 22, 23, 24, 25, 26, 27 and 28 of the *Retail Sales Tax Act* apply with necessary modifications for the purposes of objections and appeals by an operator of assessments of tax or penalties under section 7 or 8 of this Act.

Objections
R.S.O. 1980,
c. 454

12.—(1) Every operator who fails to submit a return to the Minister or to remit the tax collected under this Act to the Treasurer as required by this Act and the regulations is guilty of an offence and, in addition to any penalty otherwise provided under this Act, is liable on conviction to a fine of not less than \$100 and not more than double the amount of tax collected and not remitted.

Offences

(2) Every person who has,

Idem

(a) made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations made under this Act;

(b) to evade collection or remittance of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of records or books of account;

(c) made, assented to or acquiesced in the making of false or deceptive entries or omitted, or assented to or acquiesced in the omission to enter a material particular in records or books of account; or

(d) wilfully, in any manner, evaded or attempted to evade compliance with this Act,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of,

(e) not less than the greater of \$500 and 25 per cent of the tax that was not remitted or was not collected; and

(f) not more than twice the amount of such tax,

or to imprisonment for a term of not more than two years, or to both fine and imprisonment.

Idem

(3) Every operator who fails to collect the tax imposed by this Act is guilty of an offence and, in addition to any penalty otherwise provided under this Act, is liable on conviction to a fine equal to the amount of tax that should have been collected as determined under subsection (4) and, in addition, an amount not less than \$50 and not more than \$2,000.

Determination of tax

(4) The Minister shall determine the amount of tax referred to in subsection (3) from such information as is available to the Minister and shall issue a certificate as to the amount, but, except where the Minister considers there has been a deliberate evasion of this Act, the Minister shall not consider a period of more than three years in determining the amount of tax that should have been collected.

Certificate of tax

(5) In any prosecution under subsection (3), a certificate signed or purported to be signed by the Minister stating the amount of tax that should have been collected is *prima facie* proof of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without any proof of appointment or signature.

Idem

(6) Every person who contravenes or fails to comply with,

(a) subsection 4 (1), (2), (3) or (4);

(b) clause 5 (1) (c); or

(c) subsection 5 (2),

of this Act is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the contravention or failure exists.

General offence

(7) Every person who contravenes, or fails to comply with, any of the provisions of this Act or the regulations is guilty of an offence and, if no other fine is provided for that offence under this Act, is liable upon conviction to a fine of not less than \$100 and not more than \$2,500.

Idem

(8) Every individual who directed, authorized, assented to, acquiesced in or participated in the commission of any act or omission which is an offence under this Act and for which a corporation, agricultural society, association or club would be liable for prosecution under this Act is guilty of an offence and on conviction is liable to the punishment provided for the offence, whether or not the corporation, agricultural society, association or club has been prosecuted or convicted.

(9) Proceedings shall not be commenced in respect of an offence under this Act six years after the date on which the offence was, or is alleged to have been, committed. Limitation

(10) Neither the application of any provision of this section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax under this Act or of any penalty assessed under section 8. Other remedies not affected

13.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall, Confidentiality

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to subsection (3), no person employed by the Government of Ontario shall be required, in connection with any legal proceedings, Non-disclosure

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections (1) and (2) do not apply in respect of, Exceptions

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax or a penalty under this Act.

(4) A person employed by the Government of Ontario may, in the course of his or her duties in connection with the administration or enforcement of this Act, Idem

(a) communicate or allow to be communicated to an official or authorized person employed by the Gov-

ernment of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and

- (b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Copies

(5) Notwithstanding anything in this Act, the Minister may permit a copy of any record or thing obtained by the Minister or on the Minister's behalf for the purposes of this Act to be given to,

- (a) the person from whom the record or thing was obtained; or
- (b) any person,
 - (i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or
 - (ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause (a) or (b) or the agent of any such person authorized in writing in that behalf.

Disclosure to
other
jurisdictions

(6) Notwithstanding anything in this or any other Act, the Minister may permit information or a copy of any record or thing obtained by the Minister or on the Minister's behalf for the purposes of this Act to be given to,

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administering or enforcing an Act of the Parliament of Canada imposing any tax or duty; or

- (b) a minister of the government of any province or territory of Canada or officer or employee employed under that minister, for the purposes of administering or enforcing an Act or ordinance of the Legislature of that province or territory imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of the province or territory, as the case may be, is permitted to give to the Minister information or copies of any record or thing obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that province or territory, as the case may be, in the administration or enforcement of that Act for the purposes of the administration or enforcement of this Act.

(7) Notwithstanding anything in this Act or any other Act, Idem
the Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

(8) Every person, Offence

- (a) who contravenes subsection (1); or
- (b) to whom information has been provided under the authority of subsection (4), (5), (6) or (7) who uses, communicates or allows to be communicated such information for any purposes other than that for which it was provided,

is guilty of an offence and is liable on conviction to a fine of not more than \$200.

14.—(1) The Lieutenant Governor in Council may make regulations, Regulations:
by
Lieutenant
Governor in
Council

- (a) prescribing the method of collection and remittance of the tax imposed under this Act and any condition or requirement affecting the collection or remittance;
- (b) authorizing or requiring the Deputy Minister of Revenue or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations;

- (c) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (d) prescribing the rate of interest payable under this Act or the regulations, or a formula for computing that rate, and the method of calculating that interest;
- (e) prescribing the records, books of account and information to be kept and maintained by an operator;
- (f) prescribing anything that by this Act is to be prescribed or is to be determined by the regulations.

by Minister

(2) The Minister may make regulations,

- (a) prescribing, defining or determining anything that the Minister is permitted or required by this Act to prescribe, define or determine;
- (b) prescribing any form required by this Act or the regulations or that, in the Minister's opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

may be
retroactive

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Repeals

15.—(1) The following are repealed:

1. The *Race Tracks Tax Act*, being chapter 428 of the Revised Statutes of Ontario, 1980.
2. The *Race Tracks Tax Amendment Act, 1981*, being chapter 5.

Application
of
R.S.O. 1980,
c. 428

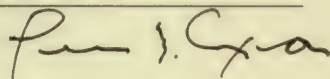
(2) Notwithstanding subsection (1), the *Race Tracks Tax Act* continues to apply in respect of taxes collected or collectable under that Act before the day this Act comes into force.

Commence-
ment

16. This Act comes into force on the day it receives Royal Assent.

Short title

17. The short title of this Act is the *Race Tracks Tax Act, 1988*.




Bill 20

(Chapter 3
Statutes of Ontario, 1988)

**An Act to provide an Incentive to
Ontario Employees of Small and Medium Sized
Corporations to Purchase Newly Issued
Shares of their Employer Corporation**

The Hon. B. Grandmaître
Minister of Revenue

<i>1st Reading</i>	November 16th, 1987
<i>2nd Reading</i>	December 9th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 20

1987

**An Act to provide an Incentive to
Ontario Employees of Small and Medium Sized
Corporations to Purchase Newly Issued
Shares of their Employer Corporation**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“administrator” means an administrator under an escrow agreement;

“associated corporations” means corporations that are associated corporations under section 256 of the *Income Tax Act* (Canada) or corporations that would be associated corporations under that section if the corporations had been incorporated in Canada;

R.S.C. 1952,
c. 148

“eligible corporation” means a corporation to which a certificate of eligibility has been issued under section 7;

“eligible employee” means an eligible employee referred to in section 11;

“employee” means an individual who is employed by an eligible corporation on a continuing basis for at least fourteen hours per week;

“employee group” means those employees who have been certified under subsection 4 (4);

“employee share” means a share issued by an eligible corporation that includes the right,

- (a) to vote at all meetings of shareholders, and
- (b) to receive the remaining property of the corporation upon dissolution;

“employee share ownership plan” means an arrangement whereby eligible employees may acquire employee shares in an eligible corporation;

“employee share purchase agreement” means an agreement entered into by an eligible corporation and its employees for the purchase of employee shares by eligible employees containing the requirements set out in subsection 2 (1);

“escrow agreement” means an agreement entered into by an eligible corporation, an administrator and an eligible employee containing the provisions required under subsection 2 (2);

“Minister” means the Minister of Revenue;

“person” includes an employee, an employee group, a corporation and an administrator;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act;

“specified shareholder of the eligible corporation” means a person who is a specified shareholder of the corporation within the meaning of subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of that Act and any reference to a taxpayer in the definition under that Act shall be read as referring to an employee under this Act;

“taxation year”, in respect of a corporation, means a taxation year of the corporation for the purposes of the *Income Tax Act* (Canada), whether or not the corporation is subject to tax under that Act or is resident in Canada for the purposes of that Act.

R.S.C. 1952,
c. 148

Provisions of
employee
share
purchase
agreement

2.—(1) An employee share purchase agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

1. The employee shares to be purchased in accordance with the agreement shall be offered for purchase to all eligible employees.
2. A method of valuing such employee shares shall be described which shall apply to all common shares and employee shares issued by the eligible corporation.

3. A subscription price for the employee shares shall be specified and shall comply with the method of valuing the shares.
4. The terms and conditions for the purchase, sale, redemption and transfer, as applicable, of the employee shares shall be specified.
5. The employee shares shall be issued to, and be recorded on the share register in the name of, the eligible employee to be held in escrow by the administrator under the escrow agreement.
6. The eligible corporation shall provide to the eligible employees all financial information necessary to fully inform such employees in respect of the purchase, sale, transfer or redemption of employee shares.
7. The eligible corporation shall issue to the administrator an investment confirmation certificate in the prescribed form in respect of the purchase of employee shares.
8. The eligible corporation shall comply with all the provisions of the *Securities Act*, including all notice provisions applicable to the issuance, sale or transfer of shares.
9. The eligible corporation shall advise the eligible employees of the provisions of the *Securities Act* applying to the sale or transfer of shares and applying to insider trading.

R.S.O. 1980,
c. 466

(2) An escrow agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

Provisions of
escrow
agreement

1. All employee shares purchased by an eligible employee shall be held in escrow by the administrator for a period of two years from the date of purchase, or until sold, whichever is the earlier.
2. The administrator shall be a person who is independent of and is not subject to the direction of the eligible corporation or of any eligible employee.
3. The administrator shall deliver to the eligible employee the investment confirmation certificate

issued by the eligible corporation in respect of the employee shares.

4. The administrator shall maintain records of employee shares purchased, sold, transferred or redeemed, in a form acceptable to the Minister and provide to each eligible employee a report of his or her employee shares purchased, sold, transferred or redeemed.
5. All proceeds receivable by an eligible employee on the sale, transfer or redemption of the employee shares held in escrow shall be paid to the administrator.
6. The administrator shall withhold from proceeds received on a sale, transfer or redemption of employee shares paid under paragraph 5 an amount equal to the lesser of the grant paid under section 12 and the amount determined by prescribed formula, and shall remit such amount to the Treasurer of Ontario.
7. The administrator shall file an annual return with the Minister in the manner, at the time and in the form prescribed.

Eligibility to
register
employee
share
ownership
plan

3.—(1) No corporation is eligible to register an employee share ownership plan under this Act unless,

- (a) the corporation is incorporated in Canada;
- (b) the aggregate of all wages and salaries paid in the last taxation year of the corporation that ends before the date of application under subsection 5 (1) to employees of permanent establishments of the corporation in Ontario for the purposes of the *Corporations Tax Act* is not less than 25 per cent of all wages and salaries paid in the year by the corporation;
- (c) either its gross revenue, together with the gross revenue of all associated corporations, or its total assets, together with the total assets of all associated corporations, in the last taxation year ending prior to the date of application under subsection 5 (1) does not exceed \$50,000,000 or such other amount as is prescribed.

(2) Subject to subsections (3) and (4), for the purposes of subsection (1) and section 10,

Calculation
of gross
revenue and
total assets

(a) the gross revenue of a corporation in a taxation year is the amount equal to the product of,

(i) the gross revenue of the corporation as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the ratio of 365 to the number of days in the taxation year; and

(b) the total assets of a corporation in a taxation year is the amount equal to the sum of,

(i) the total assets as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the amount by which the value of any asset of the corporation has been written down and deducted from its income or undivided profits where such amount is not deductible in the calculation of its taxable income for the current and all prior taxation years under Part I of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(3) For the purposes of this section and section 10,

Idem,
associated
corporations

(a) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the gross revenue of the corporation for the taxation year is the amount by which,

(i) the sum of,

(A) the gross revenue of the corporation determined under clause (2) (a), and

(B) the aggregate of all amounts, each of which is the gross revenue of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (a),

exceeds,

- (ii) the aggregate of any amounts included in the gross revenue of the corporation or an associated corporation attributable to transactions between the corporations; and
- (b) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the total assets of the corporation for the taxation year is the amount by which,

(i) the sum of,

(A) the total assets of the corporation determined under clause (2) (b), and

(B) the aggregate of all amounts, each of which is the amount of the total assets of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (b),

exceeds,

(ii) the aggregate of,

(A) the amounts, if any, included in the total assets of the corporation under subclause (i), representing debts owed at the end of the taxation year to the corporation by an associated corporation and to an associated corporation by the corporation, and

(B) the cost to the corporation of any shares of an associated corporation beneficially owned by the corporation at the end of the taxation year and the cost to an associated corporation of any shares of the corporation beneficially owned by the associated corporation at the end of its taxation year.

Idem,
corporations
in
partnership

(4) For the purposes of this section and section 10, a corporation that is a member of a partnership shall include in its gross revenue and in its total assets for a taxation year the percentage of gross revenue and the percentage of the total

assets as disclosed in the financial statements of the partnership for the fiscal period ending in that taxation year prepared in accordance with generally accepted accounting principles that represents the corporation's participation in the profits of the partnership during the fiscal period of the partnership.

4.—(1) Where a corporation intends to deliver an application to register an employee share ownership plan, the corporation shall forward to the Minister, in the prescribed manner, copies of the proposed employee share purchase agreement, the proposed escrow agreement and any other material prescribed to be submitted for review by the Minister.

Where corporation proposes to apply to register plan

(2) The Minister shall forthwith review the proposed agreements and other materials submitted under subsection (1) and advise the corporation whether the agreements and other materials comply with this Act.

Review by Minister

(3) Where employees of the corporation referred to in subsection (1) wish to retain the services of one or more persons to assist the employees in the negotiation, evaluation and implementation of an employee share ownership plan, the employees may make an application in the prescribed form to be certified as an employee group under this Act.

Application for certification as employee group

(4) The Minister shall consider the application made under subsection (3) and may certify those employees as an employee group for the purposes of section 14.

Certification by Minister

(5) Where the Minister has certified employees as an employee group under subsection (4), no further applications may be made under subsection (3).

One employee group only

5.—(1) A corporation may apply to have an employee share ownership plan registered under this Act by delivering to the Minister an application in the prescribed form.

Application for registration of plan

(2) The application shall be accompanied by,

Material to accompany application

- (a) the corporation's financial statements for its last taxation year ending prior to the date of application under subsection (1);
- (b) a certified copy of the corporation's articles of incorporation and any amendments thereto; and
- (c) a true copy of the employee share purchase agreement, the escrow agreement and any other material prescribed to be submitted with the application.

Disentitle-
ment to
registration
of plan

6. A corporation is not entitled to have its employee share ownership plan registered under subsection 7 (1) if,

- (a) the employee share purchase agreement does not comply with subsection 2 (1);
- (b) the escrow agreement does not comply with subsection 2 (2);
- (c) the corporation fails to comply with section 3 or 5; or
- (d) the corporation fails to file any material required by this Act or the regulations.

Registration
of plan and
certificate of
eligibility

7.—(1) Where a corporation satisfies the requirements of this Act, the Minister shall register the corporation's employee share ownership plan and issue a certificate of eligibility in the form prescribed by the Minister.

Register
open to
public
inspection

(2) The Minister shall maintain a register of those eligible corporations who have registered an employee share ownership plan under this Act and the register shall be open for public inspection during normal business hours.

Amendments

8.—(1) Where an eligible corporation proposes to amend its employee share purchase agreement or its escrow agreement or any other prescribed material, it shall forthwith advise the Minister.

Approval,
variation or
rejection by
Minister

(2) Upon receipt of any proposal under subsection (1), the Minister shall forthwith consider such proposal and may approve, vary or reject the proposal, subject to section 17.

Returns

9.—(1) Within 180 days after the end of each taxation year ending after the date of registration under subsection 7 (1), every eligible corporation shall prepare and file with the Minister a return in the prescribed form setting out the information required in such return.

Extension of
time

(2) The Minister may, in his or her discretion, enlarge the time for filing the return required under this section.

Revocation
of
registration
or refusal to
pay grant

10. Subject to section 17, the Minister may revoke the registration of the employee share ownership plan of an eligible corporation or refuse to pay a grant under section 12 where,

- (a) the gross revenue of the eligible corporation, together with the gross revenue of all associated

corporations calculated in accordance with section 3, exceeds \$75,000,000, or such other amount as is prescribed, in a taxation year, and the total assets, together with the total assets of all associated corporations calculated in accordance with section 3, also exceed \$75,000,000, or such other amount as is prescribed, in the same taxation year;

- (b) the eligible corporation ceases to comply with clause 3 (1) (b);
- (c) the eligible corporation, its officers or directors or its shareholders have failed to comply with any provisions of this Act or the regulations or are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant under this Act to which they would not otherwise be entitled;
- (d) the eligible corporation proceeds with any amendments not approved by the Minister under subsection 8 (2); or
- (e) the eligible corporation requests deregistration of its employee share ownership plan.

11.—(1) Where an employee is an eligible employee under subsection (2) and complies with the provisions of this Act, the Minister may make a grant under section 12 to the eligible employee upon application therefor.

Grant to
eligible
employee

(2) An employee shall be an eligible employee if,

Where
employee is
eligible
employee

- (a) the employee was resident in Ontario on the last day of the previous calendar year and on the date the eligible corporation issues employee shares to the employee; and
- (b) the employee has been employed by the eligible corporation during the six months prior to the issue of employee shares to him or her under clause (3) (b).

(3) No grant shall be paid unless,

Condition of
payment of
grant

- (a) the eligible employee has applied to the eligible corporation to purchase employee shares of the eligible corporation in accordance with the employee share purchase agreement;

- (b) the eligible corporation has issued such employee shares in the name of the eligible employee and the shares are held in escrow by the administrator;
- (c) the eligible employee has fully paid for the employee shares; and
- (d) the employee shares are newly issued by the eligible corporation.

Idem

(4) No grant shall be paid where,

- (a) the purchaser of any employee shares is a specified shareholder of the eligible corporation;
- (b) the purchase of any employee share entitles the holder thereof to claim a credit against or deduction from income or income tax under the *Income Tax Act* (Canada); or
- (c) the purchase of any employee share entitles the holder thereof to apply for a grant under the *Small Business Development Corporations Act*.

R.S.C. 1952,
c. 148

R.S.O. 1980,
c. 475

Grants to
eligible
employees

12.—(1) An eligible employee may make an application in the prescribed form for a grant and, subject to section 11 and this section, the Minister may pay a grant equal to the lesser of,

- (a) \$300; and
- (b) 15 per cent of the cost to the eligible employee of employee shares purchased by the eligible employee from the eligible corporation in the calendar year.

Time of
application

(2) No grant shall be paid under subsection (1) unless application therefor is received by the Minister within three years of the date of issue of the employee shares.

Material to
accompany
application

(3) An application under subsection (1) shall be accompanied by,

- (a) an investment confirmation certificate in the prescribed form signed by the secretary and one other authorized signing officer of the eligible corporation that issued the employee shares in respect of which an application for a grant is being made; and
- (b) any additional prescribed material.

(4) Where an applicant for a grant under subsection (1) has previously held and disposed of,

Calculation of cost where shares previously held disposed of, etc.

- (a) common shares of the eligible corporation within six months prior to the purchase of the employee shares from the eligible corporation; or
- (b) employee shares of the eligible corporation with respect to which a grant was paid under this Act which has not been repaid under subsection 15 (1),

the cost to the applicant of the employee shares for the purposes of clause (1) (b) shall be deemed to be the amount by which the cost of the employee shares determined without reference to this subsection exceeds the aggregate of the net proceeds of disposition received or receivable by the applicant on the disposition of all shares referred to in clause (a) or (b).

13.—(1) An eligible corporation may make an application to the Minister for a grant and the Minister may pay to the corporation a grant equal to the lesser of,

Grants to eligible corporations

- (a) \$10,000; and
- (b) one-third of the outlays and expenses as prescribed incurred by the eligible corporation to establish an employee share ownership plan.

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issue to the corporation of the certificate of eligibility under subsection 7 (1).

Time of application

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the eligible corporation under this section.

One grant only

14.—(1) An employee group may make an application to the Minister for a grant and the Minister may pay to the employee group a grant equal to the lesser of,

Grants to employee groups

- (a) \$5,000; and
- (b) one-half of the outlays and expenses as prescribed incurred in advising employees in the negotiation, evaluation and implementation of an employee share ownership plan.

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issuance

Time of application

of the certificate of eligibility to the eligible corporation under subsection 7 (1).

One grant only

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the employee group under this section.

Repayment of grant when shares disposed of

15.—(1) Subject to section 17 and other than in the case of an involuntary disposition prescribed, an eligible employee who disposes of employee shares in respect of which a grant was paid under section 12 within two years from the date of purchase of the employee shares shall repay to the Minister the lesser of,

(a) an amount equal to the grant paid in respect of those employee shares to such eligible employee; and

(b) the amount determined by the prescribed formula.

Amounts paid to Treasurer

(2) All amounts payable to the Minister under subsection (1) shall be retained by the administrator from the proceeds of sale of the employee shares and shall be remitted to the Treasurer of Ontario at the time and in the manner prescribed.

Repayment of grants to which not entitled

16.—(1) Subject to section 17, where a person receives or obtains a grant under this Act to which that person was not entitled or receives or obtains the payment of any amount in excess of the amount of grant to which that person was entitled, the amount of the grant or excess payment, as the case may be, shall be deemed to be a debt due to the Crown and shall be paid forthwith by the person to the Minister.

Demand for repayment

(2) Where the Minister determines that any amount is repayable under subsection (1), the Minister shall, when requesting repayment thereof, serve on the person a demand for repayment together with the reasons therefor.

Recovery

(3) Where a person liable to make a payment under subsection (1) fails to make the payment to the Minister, the amount of the debt may be recovered in any court of competent jurisdiction in proceedings commenced by the Minister at any time.

Acceptance of lesser amount

(4) Notwithstanding subsection (1), if owing to special circumstances it is deemed inequitable to demand the whole amount due under this section, the Minister may accept such lesser amount as he or she considers proper.

Notice of proposal by Minister

17.—(1) Where the Minister proposes,

- (a) to refuse to certify an employee group under subsection 4 (4);
- (b) to refuse to register an employee share ownership plan under subsection 7 (1);
- (c) to vary or reject an amendment under subsection 8 (2);
- (d) to revoke registration under section 10;
- (e) to refuse to make a grant under subsection 12 (1), 13 (1) or 14 (1); or
- (f) to require repayment under subsection 15 (1),

the Minister shall serve notice of the proposal, together with written reasons therefor, on the applicant, registrant, corporation, employee group, eligible employee or other person, as the case may be.

(2) If the Minister fails to register the employee share ownership plan of a corporation under section 7 within six months of application therefor under subsection 5 (1), the Minister shall be deemed to have refused to register the employee share ownership plan for the purposes of clause (1) (b).

Deemed
refusal of
registration

(3) Where a person objects to a proposal under subsection (1) or a demand for repayment under subsection 16 (2) that is served on that person, the person may, within sixty days from the day of mailing of the proposal or demand or from the date upon which the Minister has been deemed to have refused registration under subsection (2), serve on the Minister a notice of objection in the prescribed form setting out the reason for the objection and all relevant facts.

Notice of
objection

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister, but the Minister may accept a notice of objection that was not served in the manner required.

Service of
notice

(5) Where no notice is served under subsection (4), the Minister may proceed to carry out the proposal under subsection (1) or recover the debt stated in the demand under subsection 16 (2).

Where no
notice served

(6) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the proposal or demand and may confirm, vary or abandon such proposal or demand, and the

Reconsider-
ation by
Minister

Minister shall thereupon notify the person making the objection of such action by registered mail.

Where no
appeal

(7) A decision of the Minister under subsection (6) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law.

Surrender of
certificate of
eligibility

(8) Where no notice was served under subsection (4) or where the Minister's proposal was confirmed under subsection (6), subject to section 18, the eligible corporation shall surrender the certificate of eligibility issued to it under subsection 7 (1).

Application
to judge
where facts
undisputed

18. In any dispute over a decision or action of the Minister under subsection 17 (6), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to a judge of the Supreme Court to have the issue in dispute determined and, if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Communi-
cation of
information

19.—(1) Except as provided in subsection (2), no person employed in the Government of Ontario shall,

- (a) knowingly communicate or allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception

(2) Notwithstanding anything in this Act, the Minister may permit information or a copy of any book, record, writing, return or other document obtained by the Minister or on his or her behalf for the purposes of this Act to be given to,

- (a) any official or authorized person employed by the Government of Ontario in the administration and enforcement of this Act;

- (b) the Minister of National Revenue of the Government of Canada or any official or employee employed under that Minister;
- (c) the Treasurer of Ontario and the Minister of Industry, Trade and Technology of the Government of Ontario and any official or employee employed under the Treasurer or Minister; or
- (d) the Ontario Securities Commission or any official employed by the Commission.

20.—(1) Every eligible corporation, administrator and employee group under this Act shall keep such records as may be prescribed by the Minister at its permanent establishment in Ontario, as defined in the *Corporations Tax Act*, or place of business in Ontario, as the case may be, or at such other place of business as is designated by the Minister, in the form and containing such information as will enable the Minister to determine that this Act and the regulations have been complied with.

Records

R.S.O. 1980,
c. 97

(2) Where an eligible corporation, administrator or employee group has failed to keep adequate records for the purposes of this Act, the Minister may require the eligible corporation, administrator or employee group to keep such records as may be so required.

Idem

(3) Every eligible corporation, administrator or employee group required by this section to keep records shall, until permission for their disposal is given by the Minister, retain every such record and every account or voucher necessary to verify the information in any such record.

Retention of
records

21.—(1) Any person thereunto authorized by the Minister for any purpose relating to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or records are or should be kept pursuant to this Act, and,

Investigations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of any grant paid or payable under this Act;
- (b) examine any property, process or matter an examination of which may, in his or her opinion, assist

such person in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books and records or in such application, or the amount of any grant paid or payable under this Act; and

- (c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if so required, in writing, on oath or statutory declaration and, for that purpose, require such person to attend at the premises or place with him or her.

Information

(2) The Minister may, for any purpose relating to the administration and enforcement of this Act, by registered letter or by a demand served personally, require from any eligible corporation or from the president, manager, secretary or any director, agent or representative thereof, or from any other person,

- (a) any information or additional information or a return under section 9 or other return required by the regulations; or
- (b) production, or production on oath, of books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, by registered letter or a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by any agent or officer thereof, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation, or of any agent or officer thereof, for the purpose of determining eligibility or possible eligibility for a grant under this Act, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

Copies

(4) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or by a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissi-

ble in evidence and has the same probative force as the original document would have had had it been proven in the ordinary way.

(5) No person shall hinder, molest or interfere with any person doing anything that he or she is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he or she is unable to do so, do everything he or she is required by this section to do.

Compliance

(6) Any officer or employee of the Ministry of Revenue who is authorized by the Minister may administer oaths and take or receive affidavits, declarations and affirmations for the purpose of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

Adminis-
tration of
oaths

22.—(1) Every person who fails to deliver a return or report as and when required by this Act or the regulations is guilty of an offence and, in addition to any other penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day during which the default continues.

Offences

(2) Every person who fails to comply with or contravenes section 20 or 21 is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$50 for each day during which the default continues.

Idem

23. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

Officers, etc.,
of
corporations

24.—(1) Every person who,

Offences

(a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations;

(b) knowingly failed to disclose any information that is required to be disclosed and by reason thereof obtained the payment of a grant under this Act to which he or she was not entitled or to which the

person on whose behalf he or she was acting was not entitled;

- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records required to be maintained under this Act;
- (d) knowingly converted to his or her own use a payment of a grant under this Act to which he or she was not entitled; or
- (e) conspires with any person to commit an offence described in clauses (a) to (d),

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person is guilty of an offence under subsection (1) if he or she did not know that the statement was false or misleading and in the exercise of due diligence could not have known that the statement was false or misleading.

Limitation

25. Proceedings in respect of an offence against this Act may be commenced not later than six years after the time the subject-matter of the proceedings arose.

Regulations:
by
Lieutenant
Governor in
Council

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations;
- (b) prescribing additional terms and conditions to be included in an employee share purchase agreement and an escrow agreement;
- (c) prescribing any amount that is greater or lesser than the amount set out in clause 3 (1) (c) or 10 (a);
- (d) providing for the forwarding of draft agreements and other materials to the Minister under subsection 4 (1);

- (e) prescribing additional material to be included in an application under sections 5 and 12;
- (f) providing for the annual filing of a return by an administrator;
- (g) prescribing the outlays and expenses referred to in clauses 13 (1) (b) and 14 (1) (b);
- (h) prescribing the circumstances or situations of involuntary dispositions in which an eligible employee will not be required to repay a grant made under section 12 for the purposes of subsection 15 (1);
- (i) prescribing the time and manner of the remitting of amounts withheld by an administrator under subsection 15 (2);
- (j) prescribing the formula to be used in determining the amount of any repayment under clause 15 (1) (b), in lieu of the amount of the repayment referred to in clause 15 (1) (a);
- (k) defining any word or expression in this Act or the regulations that has not already been expressly defined herein;
- (l) providing for the payment of interest on any amount repayable under subsection 15 (1).

(2) The Minister may make regulations,

by Minister

- (a) prescribing any form, return or statement to be made under this Act or the regulations or that, in the Minister's opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or statement shall be completed and what information it shall contain;
- (b) prescribing, defining or determining anything the Minister is permitted or required by this Act to prescribe, define or determine;
- (c) prescribing for the purposes of this Act and the regulations the records to be maintained by an eligible corporation, an administrator or an eligible group.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

may be
retroactive

Review

27.—(1) In the fifth year after commencement of this Act, the incentive program established by this Act shall be referred to a Standing Committee of the Legislative Assembly.

Purpose

(2) The Standing Committee shall review the incentive program established by this Act to assess the effectiveness of the incentive program in achieving program objectives.

Report

(3) The Standing Committee shall report its findings to the Legislative Assembly and shall make a recommendation as to whether this Act should be continued unchanged, be amended or be repealed.

Commence-
ment

28. This Act shall be deemed to have come into force on the 1st day of January, 1988.

Short title

29. The short title of this Act is the *Employee Share Ownership Plan Act, 1988*.

Bill 21

*(Chapter 4
Statutes of Ontario, 1988)*

An Act to amend the Ministry of Revenue Act

The Hon. B. Grandmaître
Minister of Revenue

<i>1st Reading</i>	November 16th, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

CLERK
LEGISLATIVE ASSEMBLY

Bill 21

1987

An Act to amend the Ministry of Revenue Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Ministry of Revenue Act*, being chapter 287 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

4.—(1) The Minister is responsible for the administration of this Act, the Acts set out in the Schedule and the Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Adminis-
tration of
Acts

(2) The Lieutenant Governor in Council may by order amend the Schedule.

Amendments
to Schedule

2. The said Act is amended by adding thereto the following sections:

6a.—(1) Where, under this or any other Act, a power is granted to or vested in or a duty is imposed upon the Minister, the Minister may delegate in writing that power or the obligation to perform that duty to the Deputy Minister or to any officer or employee of the Ministry, subject to the conditions set out in the delegation.

Delegation of
powers and
duties

(2) Notwithstanding section 6 of the *Executive Council Act*, a deed or contract signed by a person empowered to do so under a delegation made under subsection (1) has the same effect as if signed by the Minister.

Deeds and
contracts
R.S.O. 1980,
c. 147

6b.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any officer or employee of the Ministry or anyone acting under the authority of the Minister or the Deputy Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Protection
from
personal
liability

Crown
liability
R.S.O. 1980,
c. 393

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

3. Subsection 7 (2) of the said Act is amended by striking out “mechanical” in the second line.

4. The said Act is further amended by adding thereto the following section:

Facsimile
signature

7b.—(1) The Minister or Deputy Minister may authorize the use of a facsimile of his or her signature on any document except an affidavit or statutory declaration.

Idem

(2) A facsimile of the signature of the Minister or the Deputy Minister affixed to a document under an authorization made under subsection (1) shall be deemed to be the signature of the Minister or the Deputy Minister, as the case may be.

5.—(1) Clause 8 (1) (b) of the said Act is amended by inserting after “tax” where it appears the second time in the first line “interest”.

(2) Subsection 8 (5) of the said Act is repealed and the following substituted therefor:

Conditional
remission

(5) Where a remission is granted under this section subject to a condition and the condition is not performed, the tax, fee or penalty remitted or to be remitted may be collected or all proceedings may be had as if there had been no remission.

6. The said Act is further amended by adding thereto the following section:

Definition

8a.—(1) In this section, “recoverable grant” means any grant, amount in excess of any grant, increment, amount in excess of any increment, monthly benefit, amount in excess of any monthly benefit, tax credit and interest that is required to be paid or repaid by the recipient to Her Majesty under any of the Acts administered by the Minister.

Remission of
recoverable
grant

(2) Notwithstanding any other Act, the Lieutenant Governor in Council, on the recommendation of the Minister, may, if he or she considers it in the public interest, remit any recoverable grant.

(3) A remission under this section may be total or partial, conditional or unconditional, and may be granted, Remission may be partial, etc.

- (a) before, after or pending any suit or proceeding for the recovery of the recoverable grant in respect of which it is granted;
- (b) before or after any payment or repayment thereof has been made or enforced by process or execution; or
- (c) in any particular case or class of case, before the liability for repayment of the recoverable grant arises.

(4) A remission under this section may be granted, Form of remission

- (a) by forbearing to institute a suit or proceeding for recovery of the recoverable grant;
- (b) by delaying, staying or discontinuing any suit or proceeding already instituted;
- (c) by forbearing to enforce, staying or abandoning any execution or process upon any judgment;
- (d) by the entry of satisfaction upon any judgment; or
- (e) by repaying any sum of money paid to or recovered by the Minister in satisfaction of the recoverable grant.

(5) Where a remission is granted under this section subject to a condition and the condition is not performed, the recoverable grant may be recovered or all proceedings may be had as if there had been no remission. Conditional remission

(6) A conditional remission, upon the performance of the condition, and an unconditional remission have effect as if the remission was made after the recoverable grant in respect of which it was granted had been sued for and recovered. Effect of conditional remission

(7) Remissions granted under this or any other Act may be paid out of the Consolidated Revenue Fund. Payment

(8) A statement of each remission of \$1,000 or more granted under this section shall be reported to the Legislature in the public accounts. Report

7. The said Act is further amended by adding thereto the following section:

Reciprocal
provision of
information

11. Notwithstanding any other Act, the Minister may communicate or allow to be communicated information obtained under an Act that he or she administers to a person employed by any government, or may allow such a person to inspect written statements made under any such Act if,

- (a) the government who employs the person agrees to provide similar information and written statements to the Minister on a reciprocal basis; and
- (b) the information and written statements will not be used by that government for any purpose other than the administration or enforcement of a law that imposes a tax or confers a benefit.

8. The said Act is further amended by adding thereto the following Schedule:

SCHEDULE

Agricultural Development Finance Act

Assessment Act

Corporations Tax Act

Fuel Tax Act, 1981

Gasoline Tax Act

Income Tax Act

Land Transfer Tax Act

Mining Tax Act

Motor Vehicle Fuel Tax Act

Ontario Guaranteed Annual Income Act

Ontario Pensioners Property Tax Assistance Act

Provincial Land Tax Act

Race Tracks Tax Act

Retail Sales Tax Act

Small Business Development Corporations Act

The Succession Duty Act, being chapter 449 of the Revised Statutes of Ontario, 1970, as it continues to apply under *The Succession Duty Repeal Act, 1979*

The Succession Duty Repeal Act, 1979

The Succession Duty Act Supplementary Provisions Act, 1980

Tobacco Tax Act

9. This Act comes into force on the day it receives Royal Assent. Commence-
ment

10. The short title of this Act is the *Ministry of Revenue Amendment Act, 1988*. Short title

(Chapter 38
Statutes of Ontario, 1988)

The Hon. W. Wrye
Minister of Consumer and Commercial Relations

Paul L. DeKorier

CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	November 16th, 1987
<i>2nd Reading</i>	June 27th, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

1881

January 1st

Received of the Treasurer of the County of ...

the sum of ...

Yours truly,
J. H. ...

for
for
for
for

Bill 22

1987

An Act to regulate Motor Vehicle Repairs

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“customer” means an individual who contacts a repairer for an estimate, work or repairs to a vehicle;

“estimate” means an estimate of the total cost of work on and repairs for a vehicle;

“repairer” means a person who works on or repairs vehicles for compensation;

“vehicle” means a motor vehicle as defined in the *Highway Traffic Act*. R.S.O. 1980,
c. 198

2.—(1) Where a customer asks for a written estimate, no repairer shall charge for any work on or repairs to a vehicle unless the repairer first gives the customer an estimate, in writing, of the cost of the work on or repairs to the customer's vehicle. Estimates

(2) An estimate given under subsection (1) must include, Idem

- (a) the name and address of both the customer and repairer;
- (b) the make, model, vehicle identification number and licence number of the vehicle;
- (c) a description of the work or repairs to be made to the vehicle;
- (d) the parts to be installed and a statement as to whether they will be new, used or reconditioned;
- (e) the price of the parts to be installed;

- (f) the number of hours to be billed, the hourly rate and the total cost of labour;
- (g) the total amount to be billed; and
- (h) the date the estimate is given and the date after which it ceases to apply.

Estimate fee

3.—(1) No person shall charge a fee for an estimate unless the customer is told in advance that a fee will be charged and the amount of the fee.

Idem

(2) A fee for an estimate shall be deemed to include the cost of diagnostic time and the cost of reassembling the vehicle and the cost of parts that will be damaged and must be replaced when reassembling if the work or repairs are not authorized by the customer.

Idem

(3) No person shall charge a fee for an estimate if the work or repairs in question are authorized and carried out.

Idem

(4) Despite subsection (3), a repairer may charge an estimate fee if the repairer is unable to obtain, without unreasonable delay, authorization to proceed with the work or repairs and the vehicle is reassembled before it is worked on or repaired so that it can be moved to free repair space.

Authorization
required

4.—(1) No person shall charge for any work on or repairs to a vehicle unless the customer authorizes the work or repairs.

Idem

(2) No person shall charge, for work or repairs for which an estimate was given, an amount that exceeds the estimate by more than 10 per cent.

Authorization
by telephone

5. An authorization for work or repairs that is given by telephone is not effective for the purpose of this Act unless the person receiving the authorization records,

- (a) the name and telephone number of the person giving the authorization; and
- (b) the date and time of the authorization.

Disclosure

6.—(1) Every repairer shall post signs as prescribed by the regulations in a conspicuous place clearly visible to prospective customers stating,

- (a) that written estimates are available on request;

- (b) whether there is a charge for an estimate;
- (c) the cost of computing labour charges including,
 - (i) the hourly rate,
 - (ii) whether a rate predetermining the length of time required for the work or repairs will be applied, and
 - (iii) whether any commissions are payable;
- (d) that replaced parts will be available to the customer after the work or repairs; and
- (e) the telephone number of the regional office of the Ministry of Consumer and Commercial Relations where complaints may be directed.

(2) Clause (1) (e) does not apply to a repairer who puts on all repair orders and invoices that go to consumers the telephone number of the regional office of the Ministry of Consumer and Commercial Relations to which complaints may be directed. Exception

7.—(1) Every repairer shall offer to return to the customer all parts removed from the vehicle in the course of work or repairs unless advised when the work or repairs are authorized that the customer does not require their return. Return of parts

(2) Every repairer shall keep parts removed from one vehicle separate from the parts removed from any other vehicle and, if their return is requested by the customer, shall return the parts in a clean container. Parts kept separate

(3) Subsections (1) and (2) do not apply to parts, Exception

- (a) for which no charge has been made; or
- (b) replaced under warranty whose return to the manufacturer or distributor is required.

8.—(1) The repairer shall, on completion of work or repairs, provide the customer with an invoice showing, Invoice

- (a) the name and address of both customer and repairer;
- (b) the make, model, vehicle identification number and licence number of the vehicle;

- (c) the date the vehicle is returned to the customer;
- (d) the odometer reading at the time of return;
- (e) a description of the work or repairs made to the vehicle;
- (f) the parts installed and whether they are new, used or reconditioned;
- (g) the price of the parts installed;
- (h) the number of hours billed, the hourly rate and the total cost of labour;
- (i) the total amount billed; and
- (j) the terms of the warranty.

Idem

(2) Shop supplies that are charged to a customer and not included in normal operating costs shall be itemized on the invoice.

Idem

(3) Subsection (1), excluding clauses (1) (g), (h) and (i), applies where work is done under a warranty for which there is no charge.

Warranty

9.—(1) Every repairer warrants all new or reconditioned parts installed and the labour required to install them for a minimum of ninety days or 5,000 kilometres, whichever comes first.

Idem

(2) The warranty on parts used in a motorcycle or motor assisted bicycle is thirty days or 1,500 kilometres, whichever comes first, and not as set out in subsection (1).

Idem

(3) The person having charge of a vehicle that becomes inoperable or unsafe to drive because of the failure or inadequacy of work or repairs to which a warranty under this section applies may, where it is not reasonable to return the vehicle to the original repairer, have the failure or inadequacy repaired at the closest facility available for the work or repairs.

Idem

(4) Where work or repairs are made under subsection (3), the person entitled to a warranty under this section is entitled, in addition to any other rights or recourse available at law, to recover from the repairer the original cost of the work or repairs and reasonable towing charges.

(5) A customer who subjects any part to misuse or abuse is not entitled to the benefit of the warranty on that part. Loss of warranty

(6) No repairer shall refuse to reimburse a customer because of the operation of subsection (5) unless the repairer has reasonable and probable grounds to believe that the part under warranty was subjected to misuse or abuse. Idem

(7) A customer who seeks to recover costs under this section shall return, upon the request and at the expense of the original repairer, the defective parts to the original repairer unless, in the circumstances, it is not reasonably possible for the customer to do so. Return of parts

(8) An original repairer who is required to make a payment under this section is entitled to recover from the supplier of a defective part any amount paid to the customer under subsection (4). Reimbursement

10. No person shall give an estimate or charge an amount for work or repairs that is greater than that usually given or charged by that person for the same work or repairs merely because the cost is to be paid, directly or indirectly, by an insurance company registered under the *Insurance Act*. Consistent cost

R.S.O. 1980,
c. 218

11.—(1) No charge made in contravention of this Act is collectable or payable. Illegal charges not payable

(2) Any payment of a charge that was levied in contravention of this Act or any entitlement under subsection 9 (4) is recoverable by the person that made the payment or by the warranty holder in a court of competent jurisdiction. Idem

12.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. Offence

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided in subsection (1). Idem

(3) Where a corporation has been convicted of an offence under this Act, Idem

(a) each director of the corporation; and

(b) each officer, employee or agent of the corporation who was in whole or in part responsible for the contravention,

is a party to the offence unless he or she satisfies the court that he or she did not authorize, permit or acquiesce in the offence.

Regulations

13. The Lieutenant Governor in Council may make regulations,

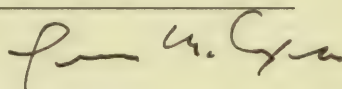
- (a) exempting any person or class of persons from the application of this Act or any provision of this Act;
- (b) prescribing conditions for any exemptions prescribed under clause (a);
- (c) prescribing size, form and style of signs for the purposes of section 6;
- (d) exempting any class of vehicle, repairer, customer, part or type of repair from the application of this Act or any provision of this Act and attaching conditions to any exemption.

Commence-
ment

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. The short title of this Act is the *Motor Vehicle Repair Act, 1988*.



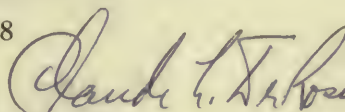
Bill 25

(Chapter 5
Statutes of Ontario, 1988)

An Act to amend the Travel Industry Act

The Hon. W. Wrye
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	November 19th, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY



Bill 25

1987

An Act to amend the Travel Industry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (e), (f) and (h) of the *Travel Industry Act*, being chapter 509 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(e) "travel agent" means a person who sells, to consumers, travel services provided by another person;

.

(h) "travel wholesaler" means a person who acquires rights to a travel service for the purpose of resale to a travel agent or who carries on the business of dealing with travel agents or travel wholesalers for the sale of travel services provided by another person.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) No person shall act or hold himself out as being available to act as a travel agent unless he is registered as a travel agent by the Registrar. Acting as
travel agent

(2) No person shall act or hold himself out as being available to act as a travel wholesaler unless he is registered as a travel wholesaler by the Registrar. Acting as
travel
wholesaler

(3) No travel agent shall conduct business from a place at which the public is invited to deal unless it is named as an office in the registration. Offices of
travel agents

(4) Where more than one office is named in the registration, one shall be designated as the main office and the remainder as branch offices. Idem

3. Subsections 4 (3) and (4) of the said Act are repealed and the following substituted therefor:

Integrity

1976-77,
c. 52 (Can.)

(4) Without restricting the generality of clause (1) (b) and subclause (1) (c) (iii), a conviction within the previous five years for theft or for an offence under paragraph 95 (h), (i), (j) or (m) of the *Immigration Act*, 1976 (Canada) is sufficient grounds for the purpose of those provisions.

4. Sections 12 and 14 of the said Act are repealed and the following substituted therefor:

Notice of
material
changes

12. Every travel agent and travel wholesaler shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in its address for service; and
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership.

5. Subsection 21 (1) of the said Act is amended by adding thereto the following clauses:

- (aa) to a ministry, department or agency of a government engaged in the administration of legislation similar to this Act;
- (ab) to a law enforcement agency.

6. The said Act is amended by adding thereto the following section:

Appointment
of receiver
and manager

21a.—(1) The Director may when he,

- (a) has ordered or is about to order an investigation under section 20;
- (b) has made or is about to make a directive under section 22;
- (c) has reasonable and probable grounds to believe that a person registered under this Act has failed or is about to fail to provide contracted and paid for travel services to a client;
- (d) is advised that a proposal to suspend or revoke a registration under section 5 or to temporarily suspend a registration under section 7 has been made; or

- (e) is advised that an investigation under section 19 has been ordered,

apply to a judge or a local judge of the Supreme Court for the appointment of a receiver and manager of an involved travel agent or travel wholesaler.

(2) A judge, upon an application being made under subsection (1), without notice or, where the judge considers that notice should be given, upon such notice as the judge stipulates, may, where it is considered in the public interest and subject to the *Bankruptcy Act* (Canada), appoint a receiver and manager to take possession and control of the business of the person in respect of whom an action referred to in subsection (1) applies for a period not exceeding sixty days.

Idem

R.S.C. 1970,
c. B-3

(3) An appointment made under subsection (2) may be extended, upon an application without notice, for an additional period not exceeding sixty days.

Extension

(4) A receiver and manager appointed under subsection (2) shall take possession and control of the assets of the business and shall thereafter conduct the business and take such steps as in his opinion should be taken toward its rehabilitation and, for such purposes, the receiver and manager have all the powers of the board of directors of the corporation, if the business is a corporation, or of a sole proprietor or all partners if the business is not a corporation and, without limiting the generality of the foregoing, the receiver and manager may,

Receiver
and manager
taking
control

(a) exclude the directors, officers, servants and agents of the business from the premises and property of the business; and

(b) carry on, manage and conduct the operations of the business and in the name of the business preserve, maintain, realize, dispose of and add to the property of the business, receive the incomes and revenues of the business.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Enforcement
of order

(6) Upon an application being made under this section, the rules of practice of the Supreme Court apply.

Rules of
practice

7. Section 22 of the said Act is amended by adding thereto the following subsection:

Application
re disposition

(6) The Director may, where he has given a direction under subsection (1) or a notice under subsection (4), apply to a judge or a local judge of the Supreme Court who may make an order as to the disposition of assets, trust funds or land affected by the direction or notice and as to costs.

8.—(1) Clause 27 (j) of the said Act is repealed.

(2) Section 27 of the said Act is amended by adding thereto the following clauses:

- (o) providing for the establishment, maintenance and administration of a compensation fund in trust by travel agents and travel wholesalers and prescribing the form and terms of the trust;
- (p) providing for the payment of levies into the compensation fund by travel agents and travel wholesalers and prescribing the amounts thereof;
- (q) providing for payment out of the compensation fund of claims and procedures to be followed in respect thereto;
- (r) requiring participation in the compensation fund by travel agents and travel wholesalers;
- (s) providing for the borrowing of moneys to supplement the compensation fund.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

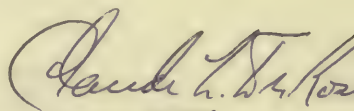
10. The short title of this Act is the *Travel Industry Amendment Act, 1988*.

Bill 26

(Chapter 39
Statutes of Ontario, 1988)

An Act to regulate Prepaid Services

The Hon. W. Wrye
Minister of Consumer and Commercial Relations


CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	November 19th, 1987
<i>2nd Reading</i>	June 21st, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

Bill 26

1987

An Act to regulate Prepaid Services

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“contract” means a contract for services to which this Act applies;

“customer” means a person who enters into, or is discussing with an operator the prospect of entering into, a contract;

“initiation fee” means a fee in addition to the annual membership fee;

“membership fee” means the amount payable by a customer for the use of services;

“operator” means a person who provides or offers to provide services;

“payment” includes an initiation fee;

“services” means facilities provided for, or instruction on,

- (a) health, fitness, modelling, talent development, diet or matters of a similar nature, or
- (b) martial arts, sports, dance or similar activities.

2.—(1) This Act applies in respect of services or proposed services for which payment in advance is required. Application

(2) This Act does not apply in respect of services that are provided, Idem

- (a) on a non-profit or co-operative basis;
- (b) by a private club primarily owned by its members;

- (c) incidental to the main business of the operator;
- (d) by an operator funded or run by a charitable or municipal organization or by the Province of Ontario or any agency thereof;
- (e) for an amount less than that prescribed by regulation.

Idem

(3) This Act does not apply to a contract in force at the time this Act comes into force.

Contract
required

3.—(1) No operator shall require or accept advance payment for services from a customer with whom the operator does not have a written contract that meets the conditions set out in section 4.

Payments
repayable

(2) All payments received in contravention of subsection (1) are repayable to the person making the payments on demand by that person.

Information
in contract

4.—(1) A contract must set out,

- (a) the name and address of the operator and the customer;
- (b) a description of the services contracted for by the customer that is sufficient to identify them with certainty;
- (c) the price of the services contracted for;
- (d) the conditions upon which the contract may be renewed, cancelled or rescinded;
- (e) if payment is to be by instalment, the number of instalments, the amount of each instalment and the total additional cost, if any, for payment by instalment; and
- (f) where any part of the services are not available at the time the contract is signed, the date that the services will be made available and the name and address of the person holding the trust funds pending availability.

Renewal of
contracts

(2) A contract that provides for renewal must also provide that it is not renewable if the customer notifies the operator in writing, before the time for renewal, that the customer does not want to renew.

5. No contract may be made for a term longer than one year after the day that all the services are made available to the customer. Contracts for one year only

6.—(1) No contract may be made between two parties to an existing contract unless the subsequent contract is for services that are distinctly different from the services to be provided under the existing contract. Only one contract

(2) For the purposes of subsection (1), a different term or a different commencement date does not constitute a distinct difference in the services to be provided. Idem

7.—(1) No operator shall charge a customer more than one initiation fee. Initiation fee

(2) No operator shall charge an initiation fee that is greater than twice the annual membership fee. Idem

8.—(1) Every operator shall make available to customers at least one plan for instalment payments of membership and, where applicable, initiation fees whereby customers may make equal monthly payments over the term of the contract. Instalment plans

(2) In a plan for payments, the total amount paid by instalments shall not exceed the membership or initiation fee, if applicable, by more than 25 per cent. Idem

9.—(1) Any customer may rescind a contract by delivering written notice of rescission to the operator within five days after the contract is signed or the services are available, whichever is the later. Rescission

(2) A customer who rescinds a contract is not liable for payment for services received or used up to the rescission and is entitled to a refund of any payment made pursuant to the contract. Idem

(3) A notice of rescission sent to an operator by registered mail shall be deemed to be delivered on the day that it is mailed. Idem

10. Every operator who owes a refund shall pay the refund within twenty days, Refund

- (a) after receiving notice of rescission or cancellation, as the case may be; or

- (b) where subsection 13 (3) or (4) applies, after the day specified in the contract or the expiration of the last permission, whichever is the later.

Notice re
renewal

11.—(1) Where a contract provides for renewal and the operator does not deliver to the customer a notice reminding the customer of the provision required by subsection 4 (2), the provision for renewal does not apply.

Idem

(2) The notice under subsection (1) must be delivered at least thirty days before but not more than ninety days before the end of the contract.

Idem

(3) A notice under subsection (1) sent by registered mail to the customer at the last known address of the customer that the operator has shall be deemed to be delivered on the day that it is mailed.

Monthly
renewals

(4) Subsection (1) does not apply to a contract providing for successive monthly renewals where the customer has the option of cancelling on one month's notice or less.

Trust account

12. Every operator shall maintain a trust account designated by the name of the operator and the words "prepaid contract trust" at a bank, trust company, credit union or caisse populaire in which the operator shall place all funds received in respect of membership for a contract that may be rescinded under section 9.

Trustee

13.—(1) No operator shall receive payment from a customer for services that are not available at the time the payment is made except through a trust company registered under the *Loan and Trust Corporations Act, 1987* that has agreed to act as a trustee for the payment.

1987, c. 33

Exception

(2) Subsection (1) does not apply where one of the services that is not available is the use of the facility and the customer has agreed in writing to use another facility provided by the operator until the facility contracted for is available.

Facility not
available

(3) Where a facility is not available for use on the day specified in the contract, the trustee shall refund all payment received from the customer unless the customer agrees in writing to permit the trustee to retain the payment.

Extension

(4) No permission given under subsection (3) applies for longer than ninety days but a subsequent permission may be given on the expiration of a permission.

Duties of
trustee

(5) Where an operator has a trustee under subsection (1),

(a) any notice to the trustee shall be deemed to be notice to the operator as if the trustee were the operator; and

(b) any money payable by the operator is payable by the trustee to the extent that the trustee holds sufficient trust funds for that purpose.

(6) Every trustee under subsection (1) shall, upon receiving any payment from a customer, provide the customer with written confirmation of receipt of the payment and that the payment will be dealt with in accordance with this Act. Idem

(7) No trustee shall release to an operator funds received from a customer except in accordance with the trust agreement. Idem

14. A waiver by a customer of any provision of this Act is not valid. Waiver
invalid

15.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 and not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or if such person is a corporation, to a fine of not more than \$50,000. Penalty

(2) Where a corporation is guilty of an offence under this Act or the regulations, every director or officer of the corporation who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not less than \$2,000 and not more than \$25,000 or to imprisonment for a term of not more than one year, or to both. Idem

16. The Lieutenant Governor in Council may make regulations, Regulations

- (a) defining any word or expression used in this Act;
- (b) regulating the form of contracts including the size, type and colour of letters used therein;
- (c) governing advertisement by operators;
- (d) prescribing classes of operators;
- (e) exempting any class of operator from the application of this Act or the regulations or any provision of this Act or the regulations;

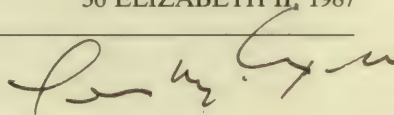
- (f) prescribing an amount for the purposes of clause 2 (2) (e);
- (g) governing trusts set up for purposes of subsection 13 (1) and prescribing terms of trust agreements.

Commence-
ment

17. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

18. The short title of this Act is the *Prepaid Services Act*, 1988.

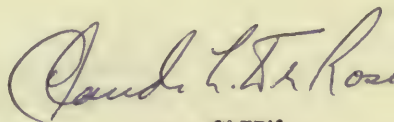


Bill 29

*(Chapter 19
Statutes of Ontario, 1988)*

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. J. Eakins
Minister of Municipal Affairs



**CLERK
LEGISLATIVE ASSEMBLY**

<i>1st Reading</i>	November 23rd, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	February 8th, 1988
<i>Royal Assent</i>	February 11th, 1988

Bill 29

1987

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 18, section 1, is further amended by adding thereto the following clauses:

(ga) “local ward” means a ward established for the purpose of electing a councillor or councillors to the council of an area municipality;

.

(ja) “metropolitan councillor” means a person described in clauses 5 (1) (b) to (g);

.

(ka) “metropolitan ward” means a ward established for the purpose of electing a metropolitan councillor to the Metropolitan Council.

(2) Clauses 1 (l) and (m) of the said Act are repealed and the following substituted therefor:

(l) “Minister” means the Minister of Municipal Affairs;

(m) “Ministry” means the Ministry of Municipal Affairs.

2.—(1) Subsection 5 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 2, is repealed and the following substituted therefor:

(1) The Metropolitan Council shall be composed of,

Composition
of
Metropolitan
Council

- (a) the head of council of each area municipality;
- (b) one person elected by the electors of the area municipality of the Borough of East York;
- (c) four persons elected by the electors of the area municipality of the City of Etobicoke;
- (d) seven persons elected by the electors of the area municipality of the City of North York;
- (e) six persons elected by the electors of the area municipality of the City of Scarborough;
- (f) eight persons elected by the electors of the area municipality of the City of Toronto; and
- (g) two persons elected by the electors of the area municipality of the City of York.

(2) Subsection 5 (2) of the said Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 39, is repealed.

(3) Subsection 5 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 2, section 1, is repealed and the following substituted therefor:

Division into
metropolitan
wards

(3) Subject to subsection (4), and in accordance with section 5a, each area municipality shall be divided into a number of metropolitan wards equal to the number of metropolitan councillors provided for in subsection (1).

(4) Subsection 5 (4) of the said Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 39, is repealed and the following substituted therefor:

Deeming
provision

(4) The Borough of East York shall be deemed to be one metropolitan ward.

(5) Subsections 5 (5), (6), (7) and (8) of the said Act are repealed and the following substituted therefor:

Election by
ward

(5) One metropolitan councillor shall be elected by the electors of each metropolitan ward.

Time of
election,
term of
office

(6) The election of the metropolitan councillors as provided for in subsections (1) and (5) shall be held at the regular elections, and the metropolitan councillors so elected shall hold office for a three year term and until their successors are elected and the new Metropolitan Council is organized.

(7) A person is eligible to be elected a metropolitan councillor for an area municipality if he or she is eligible to be elected a member of the council of that area municipality under the *Municipal Elections Act*, or to be appointed to fill a vacancy in the office of a member so elected, but no person, except a head of the council of an area municipality, may be a member of the Metropolitan Council and the council of an area municipality at the same time.

Eligibility for office of metropolitan councillor

R.S.O. 1980, c. 308

3. The said Act is amended by adding thereto the following sections:

5a.—(1) Each area municipality shall, within thirty days of the date upon which this section comes into force, submit to the Minister a proposal with respect to the boundaries of the metropolitan wards, the number of local wards and their boundaries and the number of councillors to be elected from each local ward in that area municipality.

Proposal to be submitted to Minister

(2) The proposal of each area municipality shall be consistent with the criteria set out in subsections (4), (5) and (6).

Nature of proposal

(3) After the expiration of the time for the submission of proposals by the area municipalities, the Minister shall submit to the Lieutenant Governor in Council a recommendation with respect to,

Minister to submit proposal to Lieutenant Governor in Council

- (a) the boundaries to be established for metropolitan wards;
- (b) the number of local wards;
- (c) the boundaries to be established for local wards; and
- (d) the number of councillors to be elected from each local ward,

in each area municipality.

(4) The recommendation under subsection (3) shall provide for the establishment of,

Criteria for recommendation

- (a) the number of metropolitan wards in each area municipality that is equal to the number of persons to be elected to the Metropolitan Council from that area municipality under subsection 5 (1); and
- (b) such number of local wards in each area municipality as the Minister may recommend provided there

are not less than two local wards in any area municipality.

Boundaries
of local
wards

(5) Where the Minister recommends the establishment of a number of local wards in an area municipality that is equal to the number of metropolitan wards in that area municipality, the boundaries of the local wards shall be identical to the boundaries of the metropolitan wards in that area municipality.

Idem

(6) Where the Minister recommends the establishment of a number of local wards in an area municipality that is a multiple in whole numbers of the number of metropolitan wards in that area municipality, each local ward shall be located entirely within one metropolitan ward.

Number of
councillors
from each
local ward

(7) Subject to clause 152 (1) (b), the Minister shall recommend to the Lieutenant Governor in Council the number of councillors to be elected from the local wards in each area municipality.

Order

(8) Upon receipt of the recommendation of the Minister, the Lieutenant Governor in Council shall, by order, subject to subsections (4), (5), (6) and (7), establish in each area municipality,

- (a) the boundaries of the metropolitan wards;
- (b) the number of local wards;
- (c) the boundaries of the local wards; and
- (d) the number of councillors to be elected from each local ward.

Criteria for
different
recommen-
dation

(9) Notwithstanding clause (4) (a), subsections (8), 5 (3) and 5 (5), the Minister may recommend, and the Lieutenant Governor in Council may establish, a number of metropolitan wards in an area municipality that is less than the number of persons to be elected to the Metropolitan Council from that area municipality under subsection 5 (1) if an equal number of persons are to be elected from each metropolitan ward in that area municipality.

Alteration of
metropolitan
wards by
O.M.B.
R.S.O. 1980,
c. 302

5b.—(1) Notwithstanding the *Municipal Act*, upon the application of an area municipality authorized by a by-law of the council thereof, or upon the petition of electors of that area municipality under section 13 of the *Municipal Act*, the Municipal Board may, after the 1st day of December, 1988,

by order, divide, redivide or alter any or all of the metropolitan wards within that area municipality.

(2) In making an order under subsection (1), the Municipal Board shall, Contents of order

- (a) establish in the area municipality a number of metropolitan wards equal to the number of metropolitan councillors to be elected from that area municipality;
- (b) have regard for the guidelines for the delineation of metropolitan wards established by the Minister;
- (c) designate the name or number each metropolitan ward shall bear; and
- (d) divide, redivide or alter any or all of the local wards in that area municipality in accordance with subsection 152b (2), and designate the name or number each local ward shall bear.

(3) An order made under subsection (1) shall come into effect on the 1st day of December in the year in which regular elections under the *Municipal Elections Act* occur but the regular elections held in that year shall be conducted as if the order was in effect. Effective date of order
R.S.O. 1980,
c. 308

(4) Where the Minister inquires into the structure, organization and methods of operation of one or more area municipalities or the Metropolitan Corporation, the Minister may give notice to the Municipal Board of such inquiry and that any application and any petition made under subsection (1) should be deferred until the inquiry has been completed and thereupon all proceedings in any such application or petition are stayed until the Minister gives notice to the Municipal Board that they may be continued. Inquiry by Minister

5c.—(1) At the first meeting of the Metropolitan Council in each year after a regular election at which a quorum is present, the Metropolitan Council shall organize as a council and elect as chairman a metropolitan councillor to hold office for the term of the council and until his or her successor is elected or appointed in accordance with this Act. Election of chairman

(2) The chairman may be elected by secret ballot if so decided by resolution of the Metropolitan Council. Secret ballot

(3) The clerk of the Metropolitan Corporation shall preside at each such first meeting or, if there is no clerk, the members Clerk to preside

present shall select a member to preside, and the person so selected may vote as a member.

Adjournment

(4) If, at such first meeting after a regular election, a chairman is not elected, the presiding officer may adjourn the meeting and, if a chairman is not elected at any adjourned meeting held within one week after the first meeting, the Lieutenant Governor in Council shall appoint a metropolitan councillor as chairman to hold office for the term of the council and until his or her successor is elected or appointed in accordance with this Act.

4.—(1) Subsection 6 (1) of the said Act is amended by striking out “after the councils of the area municipalities have held their first meetings under subsection (2), but in any event” in the second, third and fourth lines.

(2) Subsections 6 (3) and (4) of the said Act are repealed and the following substituted therefor:

Certification
of qualifi-
cation

(3) Where a person is elected as a member of the Metropolitan Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Metropolitan Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat on the Metropolitan Council to which the person has become entitled until the clerk of the Metropolitan Corporation has received such a certificate in respect of that person.

5. Subsection 8 (2) of the said Act is repealed and the following substituted therefor:

Votes

(2) Each member of the Metropolitan Council has only one vote.

6. Section 9 of the said Act is repealed and the following substituted therefor:

Term of
office, heads
of council

9. The members of the Metropolitan Council who are heads of council hold office while they hold the office that entitled them to such membership.

7.—(1) Subsection 10 (1) of the said Act is amended by striking out “person” in the third line and inserting in lieu thereof “metropolitan councillor”.

(2) Subsection 10 (2) of the said Act is repealed and the following substituted therefor:

(2) Where a vacancy occurs in the office of the chairman who has been elected under subsection 5c (1), the Metropolitan Council shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a chairman who shall be a metropolitan councillor to hold office for the remainder of the term of his or her predecessor. Idem

(3) Subsection 10 (3) of the said Act is amended by striking out "person" in the third line and inserting in lieu thereof "metropolitan councillor".

(4) Clause 10 (3c) (b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 29, section 2, is amended by striking out "member of the council of an area municipality" in the first and second lines and inserting in lieu thereof "metropolitan councillor".

(5) Subsection 10 (3e) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 29, section 2, is amended by striking out "or the council of the area municipality, as the case may be" in the third and fourth lines.

(6) Subsection 10 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 2, section 2, is repealed and the following substituted therefor:

(4) Where a vacancy occurs on or before the 31st day of March of an election year, as defined in the *Municipal Elections Act*, in the office of a member who is a metropolitan councillor, Vacancies
R.S.O. 1980,
c. 308

(a) the Metropolitan Council shall appoint a person to fill that vacancy, and sections 45 and 47 of the *Municipal Act* apply with necessary modifications to the filling of every such vacancy; or R.S.O. 1980,
c. 302

(b) the clerk of the area municipality for which the vacancy occurs shall hold an election to fill the vacancy in accordance with section 92 of the *Municipal Elections Act*,

as determined by by-law of the Metropolitan Council.

(4a) Where a vacancy occurs after the 31st day of March of an election year, as defined in the *Municipal Elections Act*, in the office of a member who is a metropolitan councillor, the Metropolitan Council shall fill every such vacancy and subsection 46 (3) of the *Municipal Act* applies with necessary modifications to the filling of the vacancy. Idem

(7) Section 10 of the said Act is amended by adding thereto the following subsection:

Where head
of council
incapacitated

(4b) In the event that the head of a council of an area municipality is for any incapacity unable to fulfil the duties as a member of the Metropolitan Council for a period exceeding one month, the council of the area municipality may by by-law appoint one of its members as an alternate representative to the Metropolitan Council who shall act in the place and stead of the head of council during the incapacity but no such by-law shall have effect for a period longer than one month from its effective date.

(8) Subsection 10 (5) of the said Act is repealed and the following substituted therefor:

Election
expenses

(5) The Metropolitan Corporation shall pay all reasonable expenses incurred by the area municipality with respect to the election under clause (4) (b).

Resignation
of chairman

(6) The chairman may resign his or her office by notice in writing filed with the clerk of the Metropolitan Corporation and the office then becomes vacant.

Vacancy
when council
not in session

(7) Where for any cause a vacancy occurs in the office of the chairman when the Metropolitan Council is not in session, the clerk of the Metropolitan Corporation shall forthwith notify the members of the vacancy and, if required in writing to do so by a majority of them, the clerk shall call a special meeting of the Metropolitan Council to fill the vacancy.

8. Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 29, section 3, 1984, chapter 18, section 3 and 1985, chapter 2, section 3, is repealed.

9. Section 13 of the said Act is repealed and the following substituted therefor:

Committees

13.—(1) The Metropolitan Council may establish standing or other committees, including an executive committee, and assign to them such duties as it considers expedient.

Chairman of
executive
committee

(2) Where the Metropolitan Council establishes an executive committee, the chairman of the Metropolitan Council shall be the chairman of and a member of such committee.

Delegation to
executive
committee

(3) If the Metropolitan Council establishes an executive committee, the Metropolitan Council may by by-law,

- (a) authorize the executive committee to exercise the powers set out in section 12 and subsection 97 (3); and
- (b) delegate authority to the executive committee under section 200.

10.—(1) Subsection 152 (1) of the said Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 39, is repealed and the following substituted therefor:

(1) The council of each area municipality shall be composed of a mayor elected by general vote who shall be the head of council and,

Composition
of council

- (a) if the area municipality has two or three wards, two or three councillors for each ward; or
- (b) if the area municipality has four or more wards, one, two or three councillors for each ward.

(2) Subsection 152 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 10, section 39, is repealed and the following substituted therefor:

(2) The council of each area municipality may establish standing or other committees and assign to them such duties as it considers expedient.

Committees

(3) Subsections 152 (3) and (4) of the said Act are repealed and the following substituted therefor:

(3) Notwithstanding sections 67 and 68 of the *Municipal Act*, no area municipality shall have a board of control.

No boards of
control
R.S.O. 1980,
c. 302

(4) Subsection 152 (5) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 12, is repealed.

11. Section 152a of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4 and amended by the Statutes of Ontario, 1987, chapter 10, section 39, is repealed.

12. The said Act is further amended by adding thereto the following section:

152b.—(1) Notwithstanding the *Municipal Act*, upon the application of an area municipality authorized by a by-law of the council thereof, or upon the petition of the electors of that area municipality in accordance with section 13 of the

Alteration of
local wards
by O.M.B.

R.S.O. 1980,
c. 302

Municipal Act, the Municipal Board may, after the 1st day of December, 1988, by order,

- (a) divide or redivide the area municipality into two or more local wards and shall designate the name or number each local ward shall bear;
- (b) alter any or all of the local wards in the area municipality; or
- (c) subject to subsection 152 (1), vary the composition of the council of the area municipality,

provided that the mayor of the area municipality shall continue to be elected by a general vote of the electors of the area municipality, shall be the head of council of the area municipality, and shall be a member of the Metropolitan Council.

Contents of
order

(2) In making an order under subsection (1), the Municipal Board shall, subject to clause (1) (a),

- (a) establish in the area municipality a number of local wards equal to the number of metropolitan wards in that area municipality with the boundaries of the local wards being identical to the boundaries of the metropolitan wards in that area municipality; or
- (b) establish in the area municipality a number of local wards equal to a multiple in whole numbers of the number of metropolitan wards in that area municipality and divide or redivide each of the metropolitan wards into two or more local wards, as the case may be, but each local ward shall be located entirely within one metropolitan ward.

Effective
date of order

R.S.O. 1980,
c. 308

(3) An order made under subsection (1) shall come into effect on the 1st day of December in the year in which regular elections under the *Municipal Elections Act* occur but the regular elections held in that year shall be conducted as if the order was in effect.

Inquiry by
Minister

(4) Where the Minister inquires into the structure, organization and methods of operation of one or more area municipalities or the Metropolitan Corporation, the Minister may give notice to the Municipal Board of such inquiry and that any application and any petition made under subsection (1) should be deferred until the inquiry has been completed and thereupon all proceedings in any such application or petition

are stayed until the Minister gives notice to the Municipal Board that they may be continued.

13. Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after "78b" in the second line "subsection 9 (1), sections".

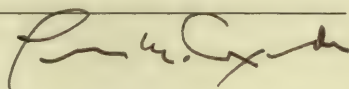
14. Section 5a of the said Act, as enacted by section 3 of this Act, is repealed on the 1st day of December, 1988 but any order of the Lieutenant Governor in Council under section 5a remains valid until altered by an order of the Municipal Board under section 5b. Transitional
and repeal

15.—(1) This Act, except section 2, sections 4 to 11 and section 13, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 2, sections 4 to 11 and section 13 come into force on the 1st day of December, 1988. Idem

(3) Notwithstanding subsection (2), the regular elections to be held in 1988 under the *Municipal Elections Act* in the area municipalities shall be conducted as if section 2, sections 4 to 11 and section 13 were in force. Idem
R.S.O. 1980,
c. 308

16. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1988*. Short title



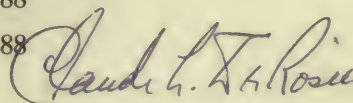
Bill 46

*(Chapter 6
Statutes of Ontario, 1988)*

An Act to amend the Ontario Unconditional Grants Act

The Hon. J. Eakins
Minister of Municipal Affairs

<i>1st Reading</i>	November 25th, 1987
<i>2nd Reading</i>	December 9th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 46

1987

**An Act to amend the
Ontario Unconditional Grants Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2b of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 23, section 3, is amended by striking out “\$47 per household, or such other” in the first and second lines and inserting in lieu thereof “such”.

2.—(1) Subsection 8 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7 and amended by the Statutes of Ontario, 1984, chapter 23, section 7, is further amended by striking out “in respect of” in the second line and inserting in lieu thereof “to”.

(2) Subsection 8 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is repealed and the following substituted therefor:

(2) In each year there shall be paid a resource equalization grant to each upper tier municipality whose equalized assessment per household in the preceding year as is determined in the prescribed manner is below such standard equalized assessment per household as may be prescribed, and the amount of the grant shall be based, in the manner and subject to such limits as may be prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per household bears to the prescribed standard equalized assessment per household as applied to the net levy of the upper tier municipality.

Payment of
grants

(3) Subsection 8 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is repealed.

3.—(1) Subsection 9 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 52, section 1, is repealed.

(2) Subsection 9 (2) of the said Act is repealed.

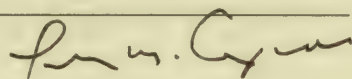
4. Clause 14 (1) (h) of the said Act is repealed.

Commence-
ment

5. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

6. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1988*.



Bill 51

(Chapter 7
Statutes of Ontario, 1988)

An Act to amend the Employment Standards Act

The Hon. G. Sorbara
Minister of Labour

<i>1st Reading</i>	December 2nd, 1987
<i>2nd Reading</i>	December 9th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 51

1987

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART XI-B

RETAIL BUSINESS ESTABLISHMENTS

39e. An employee may refuse any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*.

Right to
refuse work
R.S.O. 1980,
c. 453

39f. Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

Employment
standards
officer may
make order

2. Subsection 50 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3, is further amended by inserting after "39c" in the second line "39f".

3. Subsection 53 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4, is further amended by inserting after "39c" in the second line "39f".

4. Subsection 57 (1) of the said Act is amended by adding thereto the following clause:

(ea) has exercised a right to refuse work under section 39e.

Commence-
ment

5. This Act shall be deemed to have come into force on the 2nd day of December, 1987.

Short title

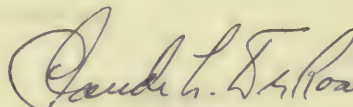
6. The short title of this Act is the *Employment Standards Amendment Act, 1988*.

Bill 52

(Chapter 40
Statutes of Ontario, 1988)

An Act to amend the Consumer Reporting Act

The Hon. W. Wrye
Minister of Consumer and Commercial Relations



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 2nd, 1987
<i>2nd Reading</i>	June 21st, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

Bill 52

1987

An Act to amend the Consumer Reporting Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (2) of the *Consumer Reporting Act*, being chapter 89 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (2) No person shall request or obtain a consumer report, Notice of
intention to
get consumer
report
- (a) containing personal information about a consumer;
or
 - (b) on the basis that the person is considering extending credit to a consumer who has not, at the time of the request, made application for credit,

unless that person first gives written notice of the fact to the consumer and, where the consumer so requests, informs the consumer of the name and address of the consumer reporting agency supplying the report.

2. The said Act is amended by adding thereto the following section:

- 10a.**—(1) No person shall, Supplying list
of names
- (a) supply a list of names and criteria to a consumer reporting agency in order to obtain an indication of the names of the persons named in the list who meet the criteria; or
 - (b) in any way other than as described in clause (a), obtain information about a consumer from a consumer reporting agency,

without first notifying in writing each person named on the list or about whom information is being obtained that such a list is being submitted or that information is being requested and,

where any person affected so requests, informing that person of the name and address of the agency involved.

Exception
where
compliance
with
subs. 10 (3)

(2) Clause (1) (b) does not apply to a person obtaining information about a consumer under subsection 10 (3) where the person has complied with subsection 10 (3).

Restriction
on consumer
reporting
agency

(3) No consumer reporting agency shall provide information about any person entitled to be notified under subsection (1) or subsection 10 (2) unless the agency has reasonable grounds to believe that the person requesting the information is not in contravention of subsection (1) or 10 (2), as the case may be.

Supplying list
of criteria

(4) No consumer reporting agency that receives,

- (a) a list of criteria and a request to provide the names of persons who meet the criteria; or
- (b) a request for names of persons so that information may be inferred about those persons,

shall provide the name of any person without first notifying that person in writing of the request and the name and address of the person making the request.

Non-
application

(5) This section does not apply where information is requested or provided for the purposes referred to in clause 8 (1) (a), (b) or (c) or in the circumstances set out in subsection 8 (3).

3. Subsection 11 (1) of the said Act is amended by adding thereto the following clause:

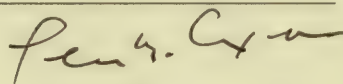
- (ba) the name and address of every person on whose behalf the file has been accessed.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Consumer Reporting Amendment Act, 1988*.




Bill 54

*(Chapter 8
Statutes of Ontario, 1988)*

An Act to amend the Theatres Act

The Hon. W. Wrye
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	December 3rd, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK

LEGISLATIVE ASSEMBLY

Bill 54

1987

An Act to amend the Theatres Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 (3) and (4) of the *Theatres Act*, being chapter 498 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 56, section 2, are repealed.

2. Subsections 3 (1) and (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 56, section 3, are repealed and the following substituted therefor:

(1) The board known as the Ontario Film Review Board is continued and shall consist of a chairperson of the Board and such other persons as the Lieutenant Governor in Council may appoint. Board

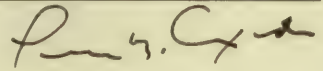
(2) The Lieutenant Governor in Council may designate one member of the Board as chairperson and one or more members of the Board as a vice-chairperson. Chairperson, vice-chairperson

(2a) The chairperson of the Board shall provide the Minister with an annual report on the activities of the Board. Annual report

(2b) Upon receiving a report under subsection (2a), the Minister shall forthwith lay the report before the Assembly if it is in session or, if not, at the next session. Idem

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Theatres Amendment Act*, 1988. Short title



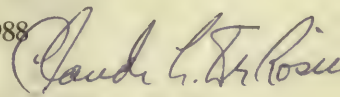
Bill 55

*(Chapter 9
Statutes of Ontario, 1988)*

An Act to amend the Upholstered and Stuffed Articles Act

The Hon. W. Wrye
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	December 3rd, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 55

1987

An Act to amend the Upholstered and Stuffed Articles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Upholstered and Stuffed Articles Act*, being chapter 517 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director of the Upholstered and Stuffed Articles Branch.

(2) Clause 1 (1) (j) of the said Act is repealed.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3. There shall be a Director of the Upholstered and Stuffed Articles Branch who shall be appointed by the Lieutenant Governor in Council to exercise the powers and perform the duties conferred or imposed on the Director under this Act. Director

3.—(1) Subsection 26 (1) of the said Act is amended by striking out “\$500” in the tenth line and inserting in lieu thereof “\$2,000” and by striking out “\$2,000” in the eleventh line and inserting in lieu thereof “\$10,000”.

(2) Subsection 26 (2) of the said Act is amended by striking out “\$500” in the fourth line and inserting in lieu thereof “\$2,000”.

4. Section 27 of the said Act is amended by striking out “\$250” in the fifth line and inserting in lieu thereof “\$1,000”.

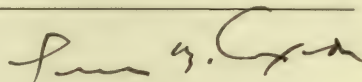
5. The said Act and the regulations thereunder are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “Director”.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Upholstered and Stuffed Articles Amendment Act, 1988*.



Bill 56


*(Chapter 10
Statutes of Ontario, 1988)*

An Act to amend the Operating Engineers Act

The Hon. W. Wrye

Minister of Consumer and Commercial Relations

<i>1st Reading</i>	December 3rd, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 56

1987

An Act to amend the Operating Engineers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 2 of subsection 15 (1) of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, is repealed.

2. Section 23 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 42, section 12, is repealed and the following substituted therefor:

23.—(1) The chief officer shall, upon payment of the fee prescribed by the regulations, issue a certificate of qualification to every person who applies therefor and holds a subsisting certificate issued by another province or territory of Canada that qualifies the person to perform the work or duties of an operating engineer or operator in such province or territory. Certificate of qualifications

(2) The certificate of qualification issued under subsection (1) shall be of a class that authorizes the holder of the certificate to perform the work and duties that, in the opinion of the chief officer, the holder is qualified to perform in Ontario having regard to the qualifications prescribed by the regulations for applicants for certificates of qualification. Idem

3.—(1) Clause 37 (b) of the said Act is amended by striking out “and provisional certificates of qualification” in the second and third lines.

(2) Clause 37 (f) of the said Act is repealed and the following substituted therefor:

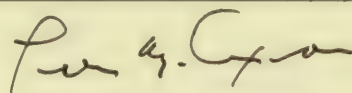
(f) providing for the issue, renewal and reinstatement of certificates of qualification.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Operating Engineers Amendment Act, 1988*.



Bill 58

*(Chapter 11
Statutes of Ontario, 1988)*

An Act to amend the Ministry of Colleges and Universities Act

The Hon. L. McLeod
Minister of Colleges and Universities

<i>1st Reading</i>	December 7th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK

LEGISLATIVE ASSEMBLY

Bill 58**1987**

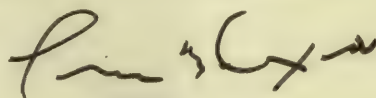
**An Act to amend the
Ministry of Colleges and Universities Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 8 (1) of the *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1987, chapter 33, section 228, is further amended by striking out "in Ontario" in the eighth line.

2. This Act shall be deemed to have come into force on the 1st day of September, 1987. Commence-
ment

3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1988*. Short title




Bill 59

*(Chapter 31
Statutes of Ontario, 1988)*

An Act to amend the Municipal Act and certain other Acts related to municipalities

The Hon. J. Eakins
Minister of Municipal Affairs



**CLERK
LEGISLATIVE ASSEMBLY**

<i>1st Reading</i>	December 7th, 1987
<i>2nd Reading</i>	June 1st, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988

100-100

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Bill 59

1987

**An Act to amend the Municipal Act and
certain other Acts related to municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 51 (3) and (4) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(3) Subject to subsection (4) and notwithstanding section 62, the warden shall be elected in the manner provided by by-law passed by council prior to the election. Election of
warden

(4) In the case of an equality of votes for warden, the successful candidate shall be determined by the clerk or presiding member placing the names of the candidates on equal size pieces of paper in a box and one name being drawn by a person chosen by the clerk or presiding member. Tie vote

(5) Notwithstanding anything in this Act, for the purposes of electing the warden, each member of county council shall have one vote. Number of
votes

2. Subsection 78 (3) of the said Act is repealed.

3. Clause 144 (c) of the said Act is amended by striking out "at a public meeting of the council" in the third and fourth lines and inserting in lieu thereof "in such manner as may be prescribed by by-law of the council".

4. Subsection 149 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 14, is further amended by adding thereto the following clause:

- (v) agreements for insurance and reciprocal contracts of indemnity or inter-insurance providing insurance and protection under paragraphs 3 and 50 of section 208 and under

1983, c. 8

section 248 of this Act and under section 14 of the *Municipal Conflict of Interest Act*, 1983.

5.—(1) Subsection 160 (1), subsection 160 (3), as amended by the Statutes of Ontario, 1984, chapter 55, section 222, and subsections 160 (4), (5) and (6) of the said Act are amended by striking out “\$50” wherever it occurs and inserting in lieu thereof in each instance “\$75”.

(2) Subsection 160 (8) of the said Act is amended by striking out “(6) or (7)” in the second line and inserting in lieu thereof “or (6)”.

(3) Subsection 160 (9) of the said Act is amended by striking out “(6) or (7)” in the second and third lines and inserting in lieu thereof “or (6)”.

(4) Subsection 160 (11) of the said Act is amended by striking out “(6) or (7)” in the fifth line and inserting in lieu thereof “or (6)”.

6.—(1) Subsection 189 (1) of the said Act is repealed and the following substituted therefor:

Current
borrowings

(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note or bankers' acceptance such sums as the council considers necessary to meet, until the taxes are collected and other revenues are received, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) Subsection 189 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the treasurer and by the head of the council or by some other person authorized by by-law to sign it.

Idem

(6a) The signature of the head of the council to all promissory notes or bankers' acceptances may be written, engraved, lithographed, printed or otherwise mechanically reproduced and, if such promissory notes or bankers' acceptances are countersigned in writing by the deputy treasurer, the signature

of the treasurer thereon may be written, engraved, lithographed, printed or otherwise mechanically reproduced.

(3) Subsection 189 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(4) Section 189 of the said Act is amended by adding thereto the following subsections:

(13) Where a municipality raises money by means of a bankers' acceptance, the municipality shall be deemed to be borrowing money. Deeming provision

(14) A bankers' acceptance authorized under this section, Bankers' acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada); R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and 1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. Interest on promissory note

7.—(1) Paragraph 3 of section 208 of the said Act is repealed and the following substituted therefor:

3. For contracting for insurance, exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* and for self-insuring, against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor. Insurance
R.S.O. 1980,
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

(b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were

members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

R.S.O. 1980,
c. 303

- (c) A local board, as defined in the *Municipal Affairs Act*, has the same powers to contract for insurance, to exchange reciprocal contracts of indemnity and to self-insure as are conferred upon the council of a municipality under this paragraph.

(2) Paragraph 43 of the said section 208, as amended by the Statutes of Ontario, 1982, chapter 50, section 23, is further amended by inserting after "thereof" in the fifth line "and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph".

(3) Paragraph 44 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:

Temporary
closing of
highway

44. For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law, any highway under the jurisdiction of the council for such social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, as may be specified in the by-law and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph.

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(4) Paragraph 50 of the said section 208, exclusive of clauses (b) to (d), is repealed and the following substituted therefor:

Liability
insurance,
payment of
damages, etc.
R.S.O. 1980,
c. 218

50. For contracting for insurance and, notwithstanding the *Insurance Act*, enabling the municipality to be or act as an insurer, to protect the employees of the municipality, or any class of such employees, against risks that may involve liability on the part of the employees and for paying premiums therefor or for paying any damages or costs awarded against any of the employees or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees including while acting in the performance of any statutory duty or for paying any sum required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the person in such an action or other proceeding.

(a) In this paragraph,

(i) “employee” means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes,

(A) a member of the police force of the municipality,

(B) persons that provide their services on behalf of the municipality without remuneration, exclusive of reimbursement of expenses or honoraria, if council of the municipality has passed a by-law designating such persons or classes of persons as employees for the purposes of this paragraph, and

(C) any other person or class of person designated as an employee by the Minister,

(ii) “local board” means a local board as defined in the *Municipal Affairs Act*.

R.S.O. 1980,
c. 303

(e) The *Insurance Act* does not apply to a municipality acting as an insurer for the purpose of this paragraph.

R.S.O. 1980,
c. 218

(5) Section 208 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 9, 1982, chapter 50, section 23 and 1987, chapter 10, section 20, is further amended by adding thereto the following paragraph:

50a. For exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* for the purpose of protecting the employees of the municipality or any local board thereof, or any class of such employees, against those risks which the corporation may insure or self-insure under paragraph 50.

Reciprocal
contracts of
indemnity
R.S.O. 1980,
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

- (b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

- (c) Clauses (a) to (d) of paragraph 50 apply, with necessary modifications, to the powers conferred by this paragraph.

8. Paragraph 96 of section 210 of the said Act is amended by adding thereto the following clause:

- (c) No fees are payable under clause (b) in respect of a child residing in a trailer if the trailer is liable for assessment and taxation under the *Assessment Act*.

R.S.O. 1980,
c. 31

9.—(1) Clause 218 (1) (b) of the said Act is repealed and the following substitute therefor:

- (b) "capital cost" means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account, and where applicable, the interest amounts payable on the debentures to be issued for the works and the imputed interest costs determined under subsection (2a).

(2) Section 218 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is further amended by adding thereto the following subsections:

Rate of
interest for
long-term
financing

- (2a) Where a by-law passed under subsection (2) specifies that the capital cost of the works is to include the imputed interest cost on money supplied from the funds of the municipality to finance the owners' share of the cost of the works, the rate of interest to be applied, for determining the imputed interest cost shall be the interest rate, as certified in writing by the treasurer, that the municipality would have expected to pay to finance the owners' share of the cost of the work by debentures issued on the day named in the certificate having a schedule of maturity dates that would have coincided with the system of collecting the sewer rates or water works rates as established under clause (19) (a).

(2b) A day named in a certificate under subsection (2a), if it is prior to the day that the by-law specifying the capital cost of the works receives first reading, shall not be earlier than sixty days prior to that first reading. Date of certificate

(3) Subsection 218 (9) of the said Act is repealed and the following substituted therefor:

(9) Where debentures are issued in respect of sewage or water works, the revenue derived in any year from a rate imposed under subsection (2) for the capital cost of the works shall be applied and used towards payment of principal and interest due in that year upon the debentures, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the rate imposed under subsection (2). Revenue from rates

(9a) The revenue from the sewer rate or water works rate imposed under subsection (2), if not required for payment of principal and interest due as specified in subsection (9), may be credited by the municipality to its general revenues. Idem

10. Subsection 248 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 8, section 16, is repealed and the following substituted therefor:

(1) The council of every municipality may at any time pass by-laws, Liability insurance, payment of damages, etc.

(a) for contracting for insurance;

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and R.S.O. 1980, c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

for the purpose of protecting the members of the council or of any local board thereof, as defined in the *Municipal Affairs Act*, against risks that may involve liability on the part of the members and for paying premiums therefor or for paying any damages or costs awarded against any such members or expenses incurred by them as a result of any action or other proceeding, except a proceeding brought under the *Municipal Conflict of Interest Act*, 1983, arising out of acts or omissions done or made by them in their capacity as members or officers of the municipality or local board including while acting in the performance of any statutory duty or for paying any sum R.S.O. 1980, c. 303
1983, c. 8

required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the member in such an action or other proceeding.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of this section.

Investment of
funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of this Act.

Reserve fund

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

11. The said Act is amended by adding thereto the following section:

Penalties for
contravention
of sewage
by-laws

321b.—(1) Notwithstanding section 321, the council of a municipality may pass by-laws for providing that any person who contravenes a by-law passed by the council that regulates or prohibits the discharge of any matter into a sewage system is guilty of an offence and for providing for the imposition of fines of not more than \$5,000 on every person who is convicted of a first offence and \$10,000 for any subsequent offence under any such by-law.

Corporations

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under a by-law passed under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 for the first offence and \$50,000 for any subsequent offence.

12. Subsection 386 (6) of the said Act is amended by striking out “fourteen days” in the seventh and eighth lines and inserting in lieu thereof “twenty-one days or such longer period as the council may authorize”.

13.—(1) Subsection 387 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 37, is further amended,

- (a) by striking out "fourteen" in the second line and inserting in lieu thereof "twenty-one"; and
- (b) by inserting after "386" in the fourth line "or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period".

(2) Subsection 387 (2) of the said Act is amended,

- (a) by striking out "fourteen" in the second line and inserting in lieu thereof "twenty-one"; and
- (b) by inserting after "386" in the fourth line "or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period".

14. Subsection 495 (2) of the said Act is amended by inserting after "496" in the third line "or 496a".

15. The said Act is further amended by adding thereto the following section:

496a.—(1) An application to the council for the cancellation, reduction or refund of taxes levied in the years indicated in subsections (5) and (6) may be made by any person who was overcharged by reason of any gross or manifest error in the preparation of the assessment roll that was an error of fact, which may include but is not limited to, clerical errors, the transposition of figures or typographical errors, but not an error in judgment in making the assessment upon which the taxes have been levied.

Reduction of
taxes, etc.,
for clerical
errors

(2) The council may by by-law appoint a committee composed of at least three persons who are members of council or who are eligible to be elected members of council but these persons shall not be employees of the municipality or of a local board as defined in the *Municipal Affairs Act* and the committee shall hear the applications under subsection (13) and section 106 applies thereto.

Delegation to
committee

(3) An application may be made from the 1st day of March until the 31st day of December of any year, by giving written notice to the clerk of the municipality.

When
application to
be made

(4) Where the Minister of Revenue extends the time for the return of the assessment roll of a municipality under subsection 35 (2) of the *Assessment Act*, an application under this section to the council of that municipality shall not be made

Idem

R.S.O. 1980,
c. 31

earlier than sixty-one days after the assessment roll is returned.

Application,
general

(5) A separate application may be made for taxes levied in each or either of the two years preceding the year in which the application is made if the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act*, in either of those years or in the year in which an application is made under this section, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

R.S.O. 1980,
c. 31

Application
in 1988

(6) Notwithstanding subsection (5), separate applications may be made in 1988 for taxes levied in each or any of the years 1982, 1983, 1984 and 1985 if,

- (a) the applicant has advised the municipality of the error before the 31st day of May, 1987; and
- (b) the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act* in any of the years 1982 to 1988, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

Notice of
application

(7) The clerk shall forward a copy of the application to the assessment commissioner and the regional registrar of the Assessment Review Board.

When
application
not valid

(8) An application is not valid and shall not be heard by council unless,

- (a) the application complies with subsection (5) or (6); and
- (b) the assessment commissioner has confirmed an error in the assessment referred to in the application.

Notification
by clerk

(9) Where an application is not valid under subsection (8), the clerk shall notify the applicant in writing and the reasons therefor.

(10) Notice of a hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council.

Notice of
hearing

(11) The council may reject the application or,

Determi-
nation by
council

- (a) if the taxes have not been paid, cancel the whole of the taxes or reduce the taxes;
- (b) if the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
- (c) if the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.

(12) The decision of the council is final.

Decision final

(13) The council shall hear and dispose of every application not later than the 30th day of April in the year following the year in which the application is made and the clerk shall thereupon cause notice of the decision to be given by mail to the persons to whom notice of the hearing of the application was given.

Hearing

(14) Notwithstanding subsection (13), where council has appointed a committee to hear applications, the committee shall hear every application before the 31st day of March in the year following the year in which the application is made.

Idem, when
committee
appointed

(15) The clerk shall deliver or mail a copy of the notice of a decision of council to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

Notice of
decision to
assessment
commissioner

(16) The Lieutenant Governor in Council may make regulations prescribing errors that are to be included or excluded as errors of fact under subsection (1).

Regulations

16. The said Act is further amended by adding thereto the following section:

498a.—(1) The Minister may pay taxes due to a municipality by a tenant, as defined in the *Assessment Act*, of land owned by Her Majesty in right of Ontario or in which Her Majesty in right of Ontario has an interest.

Tax
arrangements
for tenants of
provincial
government
R.S.O. 1980,
c. 31

Idem

(2) Where the Minister pays the taxes due in any year on behalf of a tenant under subsection (1) in respect of land occupied by the tenant and the municipality accepts the payment, all future notices of taxes due to the municipality in respect of the tenant's occupancy of the land shall be sent to the Minister and not to the tenant.

Tenant's responsibility

(3) Where the Minister pays taxes on behalf of a tenant under subsection (1), the tenant ceases to be liable to the municipality for the taxes due but the Minister may recover the amount of the taxes in whole or in part from the tenant and the amount billed to a tenant by the Minister under this subsection shall be deemed to be a debt of the tenant owing to Her Majesty in right of Ontario.

Amount deemed to be taxes

(4) An amount received by a municipality under subsection (1) shall be treated in the same manner as if paid as taxes by the tenant.

17. Subsection 14 (1) of the *Municipal Conflict of Interest Act, 1983*, being chapter 8, is repealed and the following substituted therefor:

Insurance
R.S.O. 1980,
c. 302

(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws,

(a) for contracting for insurance;

R.S.O. 1980,
c. 218

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

to protect a member of the council or of any local board thereof who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of subsection (1).

Surplus funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of the *Municipal Act*.

R.S.O. 1980,
c. 302

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

Reserve
funds

R.S.O. 1980,
c. 218

18.—(1) Subsection 83 (1) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 83 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 83 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 83 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 83 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the District Corporation raises money by means of a bankers’ acceptance, the District Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 108 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 48, section 9, is amended by inserting after "50" in the third line "50a".

19.—(1) Subsection 222 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 222 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 222 (7) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 222 (9) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 222 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(14) For the purposes of this section, where the Metropolitan Corporation raises money by means of a bankers' acceptance, the Metropolitan Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(15) A bankers' acceptance authorized under this section,

R.S.C. 1970
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(16) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as

may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after "50" in the third line "50a".

20.—(1) Subsection 92 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the warden or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 92 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 92 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the County raises money by means of a bankers' acceptance, the County shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers' acceptance authorized under this section,

Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 66, section 6, is amended by inserting after "50" in the fifth line "50a".

21.—(1) Subsection 104 (1) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 104 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 104 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 104 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 104 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5 and amended

by the Statutes of Ontario, 1987, chapter 22, section 1, is further amended by inserting after "50" in the fifth line "50a".

22.—(1) Subsection 86 (1) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 86 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 86 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 86 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 86 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers' acceptance authorized under this section,

Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12 and amended

by the Statutes of Ontario, 1987, chapter 22, section 2, is further amended by inserting after "50" in the fifth line "50a".

23.—(1) Subsection 97 (1) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 97 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 97 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 97 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 97 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17 and amended

by the Statutes of Ontario, 1987, chapter 22, section 3, is further amended by inserting after "50" in the fifth line "50a".

24.—(1) Subsection 108 (1) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 108 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer. Execution of
borrowing
instruments

(3) Subsection 108 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 108 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 108 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money. Deeming
provision

(14) A bankers' acceptance authorized under this section, Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada); R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and 1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. Interest on
promissory
note

(6) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4 and amended

by the Statutes of Ontario, 1987, chapter 22, section 4, is further amended by inserting after "50" in the fifth line "50a".

25.—(1) Subsection 137 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 137 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

(3) Subsection 137 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 137 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 137 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31 and amended

by the Statutes of Ontario, 1987, chapter 22, section 5, is further amended by inserting after "50" in the fifth line "50a".

26.—(1) Subsection 128 (1) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 128 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 128 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 128 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 128 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers' acceptance authorized under this section,

Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35 and amended

by the Statutes of Ontario, 1987, chapter 22, section 6, is further amended by inserting after "50" in the third line "50a".

27.—(1) Subsection 92 (1) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 92 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 92 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41 and amended

by the Statutes of Ontario, 1987, chapter 22, section 7, is further amended by inserting after "50" in the fifth line "50a".

28.—(1) Subsection 79 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 79 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 79 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 79 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 79 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers' acceptance authorized under this section,

Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48 and amended

by the Statutes of Ontario, 1987, chapter 22, section 8, is further amended by inserting after "50" in the third line "50a".

29.—(1) Subsection 126 (1) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 126 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 126 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 126 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 126 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54 and amended

by the Statutes of Ontario, 1987, chapter 22, section 9, is further amended by inserting after "50" in the third line "50a".

30.—(1) Subsection 129 (1) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 129 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

Execution of
borrowing
instruments

(3) Subsection 129 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 129 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 129 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers' acceptance authorized under this section,

Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59 and amended

by the Statutes of Ontario, 1987, chapter 22, section 10, is further amended by inserting after "50" in the third line "50a".

Commence-
ment

31.—(1) This Act, except sections 5, 8, 12, 13 and 16, comes into force on the day it receives Royal Assent.

Idem

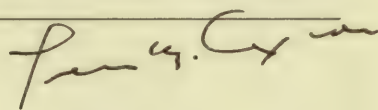
(2) Sections 5, 8 and 16 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Sections 12 and 13 come into force on the 1st day of January, 1989.

Short title

32. The short title of this Act is the *Municipal Statute Law Amendment Act, 1988*.



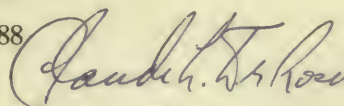
Bill 61

*(Chapter 12
Statutes of Ontario, 1988)*

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. J. Smith
Solicitor General

<i>1st Reading</i>	December 8th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 61**1987**

**An Act to amend the
Municipality of Metropolitan Toronto Act**

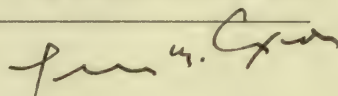
HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 177 (1) (b) and (c) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, are repealed and the following substituted therefor:

- (b) two members of the Metropolitan Council appointed by the Metropolitan Council; and
- (c) four persons appointed by the Lieutenant Governor in Council.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1988*. Short title



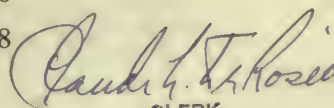
Bill 65

*(Chapter 13
Statutes of Ontario, 1988)*

An Act to amend certain Acts administered by the Ministry of Agriculture and Food

The Hon. J. Riddell
Minister of Agriculture and Food

<i>1st Reading</i>	December 9th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 65

1987

An Act to amend certain Acts administered by the Ministry of Agriculture and Food

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Ministry of Agriculture and Food Act*, being chapter 270 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(c) “person” includes an unincorporated association.

(2) Clause 4b (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 54, section 1, is repealed and the following substituted therefor:

(b) a field-man appointed under the *Milk Act* or a member, officer, clerk or employee of the Agricultural Licensing and Registration Review Board, the Farm Products Appeal Tribunal or the Ontario Farm Products Marketing Commission,

R.S.O. 1980,
c. 266

(3) Subsection 5 (2) of the said Act is amended by adding at the end thereof “and the conditions under which grants are repayable”.

(4) Section 5 of the said Act is amended by adding thereto the following subsections:

(4) A program may provide that a grant or payment shall not be assigned, charged, attached or given as security and that any transaction purporting to do so is void.

Grants not to
be given as
security

(5) A program may provide that it is to come into force before the date on which it is established.

Program may
be retroactive

(5) The said Act is amended by adding thereto the following sections:

Ontario Farm
Products
Marketing
Commission

9a.—(1) A commission to be known as the “Ontario Farm Products Marketing Commission” is hereby established as a body corporate and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members as chairman and one or more of the members as vice-chairman.

Quorum

(3) Three members of the Commission, of whom one shall be the chairman or a vice-chairman, constitute a quorum and are sufficient for the exercise of all jurisdiction and powers of the Commission.

Division of
the
Commission

(4) The chairman, or in the case of the absence or inability of the chairman to act, a vice-chairman, may assign members of the Commission to divisions thereof and may change the assignment at any time.

Quorum
necessary in
division

(5) The Commission may sit in two or more divisions simultaneously so long as a quorum of the Commission is present in each division.

Remuner-
ation

(6) Members of the Commission who are not employed in the public service of Ontario shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Non-
application
of
R.S.O. 1980,
cc. 95, 96

(7) The *Corporations Act* and the *Corporations Information Act* do not apply to the Commission.

Appointment
of officers
and
employees
R.S.O. 1980,
c. 418

(8) A secretary to the Commission and such other officers and employees as may be required may be appointed or transferred under the *Public Service Act*.

Where
secretary
absent

(9) Where the secretary is absent or the position is vacant, the Commission may appoint any person to act in that capacity.

Appointment
of specialists,
etc.

(10) The Commission may appoint conciliators or arbitrators or persons having technical or special knowledge to assist the Commission in any capacity.

Dissolution
of Milk
Commission
and Farm
Products
Marketing
Board
R.S.O. 1980,
cc. 266, 158

9b. The Milk Commission of Ontario, constituted as a body corporate under the *Milk Act* and The Farm Products

Marketing Board, constituted as a body corporate under the *Farm Products Marketing Act*, are hereby dissolved and all the real and personal property, including all the rights and privileges, of The Milk Commission of Ontario and of The Farm Products Marketing Board are vested in the Ontario Farm Products Marketing Commission and all obligations, liabilities and responsibilities of The Milk Commission of Ontario and of The Farm Products Marketing Board become obligations, liabilities and responsibilities of the Commission.

9c. All acts, appointments, directions, decisions, orders, delegations, regulations, awards, agreements, rules, resolutions, determinations, minutes and licences heretofore done, made, issued or entered into by The Milk Commission of Ontario and The Farm Products Marketing Board respectively shall be deemed to have been done, made, issued or entered into by the Ontario Farm Products Marketing Commission and shall continue good and valid and remain in full force and effect until amended, cancelled, withdrawn, suspended, revoked or annulled and others done, made, issued or entered into in their stead.

Previous acts, appointments, directions, orders, etc., continue valid

9d. A reference in any Act, regulation, by-law, contract, agreement, licence, order, decision, award or other document or thing to The Milk Commission of Ontario or The Farm Products Marketing Board shall be deemed to be a reference to the Ontario Farm Products Marketing Commission.

References to Milk Commission and Farm Products Marketing Board

(6) Section 11 of the said Act is amended by adding thereto the following subsection:

(11) Documents of the Tribunal may be signed by the chairman or any person designated in writing by the chairman.

Documents

(7) Clauses 12 (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) "Commission" means the Ontario Farm Products Marketing Commission.

(8) Clause 12 (c) of the said Act is amended by adding at the end thereof "or the *Farm Products Marketing Act*".

(9) Subsections 13 (1), (2) and (4) of the said Act are repealed and the following substituted therefor:

(1) Subject to subsection (4), if a person is aggrieved by an order, direction, policy or decision of the Commission or Director, made under the *Farm Products Marketing Act* or the *Milk Act*, that person may appeal to the Tribunal by filing

Appeal to Tribunal

R.S.O. 1980, cc. 158, 266

with the Tribunal and sending to the Commission or Director written notice of the appeal.

Idem

(2) Subject to subsections (4) and (5), if a person is aggrieved by an order, direction, policy, decision or regulation made under the *Farm Products Marketing Act* by a local board or under the *Milk Act* by a marketing board, that person may appeal to the Tribunal by filing with the Tribunal and sending to the local board or marketing board written notice of the appeal.

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Tribunal may
refuse to
hear appeal

(4) The Tribunal may refuse to hear the appeal or, after a hearing has commenced, refuse to continue the hearing or make a decision if it relates to any order, direction, policy, decision or regulation of which the appellant has had knowledge for more than one year before the notice is filed under subsection (1) or (2) or, if in its opinion,

- (a) the subject-matter of the appeal is trivial;
- (b) the appeal is frivolous or vexatious or is not made in good faith; or
- (c) the appellant has not a sufficient interest in the subject-matter of the appeal.

(10) Subsection 13 (5) of the said Act is repealed and the following substituted therefor:

Conditions
for appeal

(5) No appeal may be taken from an order, direction, policy, decision or regulation of a local board or a marketing board unless,

- (a) the appellant has first applied to the local board or marketing board for a hearing and the local board or marketing board has refused to grant, in whole or in part, the relief requested by the appellant or has not decided the matter within sixty days of the application for a hearing; or
- (b) the appellant and the local board or marketing board have waived their respective rights under clause (a) in writing.

(11) Section 13 of the said Act is amended by adding thereto the following subsection:

Effect of
appeal
R.S.O. 1980,
c. 484

(5a) Where, by virtue of subsection 25 (1) of the *Statutory*

Powers Procedure Act, an appeal under subsection (1) or (2) operates as a stay in the matter, the Tribunal may limit or define the scope of the stay.

(12) Subsection 13 (6) of the said Act is amended by striking out "the Board" in the second line.

(13) Subsections 13 (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

(7) In an appeal under subsection (1) or (2), the Tribunal shall, within ten days after the notice referred to in subsection (1) or (2) is received, send notice to the person making the appeal and upon any body entitled to receive notice under subsection (6) or the Director, as the case may be, of the date, time and place at which the appeal will be heard.

Notice of
hearing

(8) The Tribunal shall complete the hearing within forty-five days after the date set for the hearing, but the Tribunal may, at the request of any party to the proceedings, adjourn the hearing for such periods of time as the Tribunal considers just.

Hearing of
appeal

(9) At any hearing under this section, any person entitled to receive notice under subsection (7) and any person having a sufficient interest in the subject-matter of the appeal may be a party to the appeal and the *Statutory Powers Procedure Act* applies.

Parties

R.S.O. 1980,
c. 484

(14) Subsection 13 (10) of the said Act is amended by striking out "the Board" in the second line and in the seventh line.

(15) Subsection 13 (11) of the said Act is repealed and the following substituted therefor:

(11) The Tribunal shall, within twenty days after the hearing is completed, send notice of its decision and reasons, if any, to all parties to the appeal and to the Minister.

Notice of
decision

(16) Subsections 13 (13) and (14) of the said Act are repealed and the following substituted therefor:

(13) Notice under this section may be given by mail to the usual business address of the person or, in the case of the person making an appeal, to the address shown in the notice of appeal.

Notice by
mail

(14) After the Tribunal has decided an appeal under this section, the Tribunal may, on its own motion or upon the request of any person who is aggrieved by the decision,

Tribunal may
reopen
hearing

reopen the hearing and make a new decision, and the procedure for an appeal under this section applies to the hearing.

(17) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Request for
reconsid-
eration

(1) Where a person is aggrieved by an order, direction, policy or decision of the Commission, a local board, a marketing board or the Director, that person may, by written application therefor, request a reconsideration of the order, direction, policy or decision.

(18) Subsection 14 (4) of the said Act is repealed and the following substituted therefor:

Idem

(4) Where a person is affected by any regulation made by the Commission, that person may request the Commission to reconsider the regulation by serving upon the Commission written notice of the request.

(19) Subsection 15 (1) of the said Act is repealed and the following substituted therefor:

Powers of
Minister

(1) Within thirty days after receipt by the Minister of a decision of the Tribunal under this Act and the reasons therefor, if any, or within such longer period as may be determined by the Minister within such thirty-day period, the Minister may,

- (a) confirm, vary or rescind the whole or any part of the decision;
- (b) substitute for the decision of the Tribunal such decision as the Minister considers appropriate; or
- (c) by notice to the Tribunal require the Tribunal to hold a new hearing of the whole or any part of the matter appealed to the Tribunal and reconsider its decision.

(20) Subsection 15 (2) of the said Act is amended by inserting after "varied" in the third line "or rescinded".

(21) Subsection 15 (3) of the said Act is amended by striking out "varied" in the first line and inserting in lieu thereof "confirmed, varied or rescinded".

(22) Subsection 15 (4) of the said Act is amended by inserting after "variation" in the second line "rescission".

2.—(1) Clause 1 (a) of the *Farm Products Marketing Act*, being chapter 158 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) “Commission” means the Ontario Farm Products Marketing Commission under the *Ministry of Agriculture and Food Act*. R.S.O. 1980,
c. 270

(2) The said Act is amended by striking out “Board” wherever it occurs as a reference to “The Farm Products Marketing Board” and inserting in lieu thereof in each instance “Commission”.

(3) Section 1 of the said Act is amended by adding thereto the following clause:

- (aa) “Director” means the Director appointed under this Act.

(4) Clause 1 (b) of the said Act is amended by striking out “such articles” in the fifth line and inserting in lieu thereof “articles”.

(5) Clause 1 (c) of the said Act is repealed and the following substituted therefor:

- (c) “licence” means a licence provided for under this Act.

(6) Clause 1 (g) of the said Act is amended by striking out “marketing” in the second line and inserting in lieu thereof “producing or marketing or both”.

(7) Section 2 of the said Act is repealed and the following substituted therefor:

2. The purpose of this Act is to provide for the control and regulation in any or all aspects of the producing and marketing within Ontario of farm products including the prohibition of such producing or marketing in whole or in part. Purpose of
Act

(8) Section 3 of the said Act is repealed.

(9) Clause 4 (1) (g) of the said Act is amended by,

- (a) striking out “and” at the end of subclause (i);
- (b) adding “and” at the end of subclause (ii); and
- (c) adding thereto the following subclause:

- (iii) inspect any growing plants or development in the producing of a regulated product.

(10) Clause 4 (1) (h) of the said Act is repealed.

(11) Subsections 4 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local board
a body
corporate
R.S.O. 1980,
cc. 95, 96

(5) Every local board is a body corporate to which the *Corporations Act* and the *Corporations Information Act* do not apply.

Protection
from
personal
liability

(6) No member of a local board and no officer, clerk or employee of a local board is personally liable for anything done or omitted to be done by the board or by the member, officer, clerk or employee in good faith in the exercise of any power or the performance of any duty under or purporting to be under this Act or any other Act of Ontario or Canada.

(12) Subsection 5 (1) of the said Act is amended by inserting after “the” in the fourth line “producing or”.

(13) Clause 6 (1) (a) of the said Act is amended by inserting after “the” in the second line “producing or”.

(14) Clause 6 (1) (b) of the said Act is repealed.

(15) Clause 6 (1) (c) of the said Act is amended by striking out “marketing” in the fourth line and inserting in lieu thereof “producing or marketing”.

(16) Clause 6 (1) (h) of the said Act is amended by striking out “notwithstanding any other Act” in the first line.

(17) Subsection 7 (1) of the said Act is amended by,

(a) striking out “or (h)” in the third line; and

(b) inserting after “product” in the seventh line “and growing plants or development in the producing of the regulated product”.

(18) Subsection 7 (2) of the said Act is amended by striking out “or (h)” in the third line.

(19) Subsection 7 (3) of the said Act is amended by striking out “or (h)” in the second and third lines.

(20) Paragraphs 1, 2, 3, 4 and 5 of subsection 8 (1) of the said Act are repealed and the following substituted therefor:

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of a regulated product and delegating to the Director the authority to grant, refuse to grant, renew, suspend and revoke licences;
2. prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;
3. providing that the Commission, Director or local board may impose such terms and conditions upon a licence as the Commission, Director or local board considers proper;
4. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence and except in compliance with the terms and conditions of the licence;
5. providing for the refusal to grant or renew or the suspension or revocation of a licence,
 - i. where the applicant or licensee is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made or the licence granted, or
 - ii. where the applicant or licensee has failed to comply with or has contravened any provision of this Act, the regulations, any plan or any order or direction of the Commission, Director or local board or of a marketing agency of Canada;
- 5a. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Commission, Director or local board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence or any provision of this Act, the regulations, any plan or any order or direction of the Commission, Director or local board;
- 5b. providing for the fixing of licence fees and the payment thereof by any or all persons producing, marketing or processing a regulated product and the

collecting of the licence fees and their recovery by suit in a court of competent jurisdiction.

(21) Paragraphs 10, 11 and 16 of the said subsection 8 (1) are repealed and the following substituted therefor:

10. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a person or class of persons engaged in the producing, marketing or processing of a regulated product and providing for the administration, forfeiture and disposition of any moneys or securities so furnished and the proceeds therefrom;
11. authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing by any person engaged in the producing, marketing or processing of a regulated product;

.

16. providing for the control and regulation of the producing or marketing of any regulated product, including the times and places at which the regulated product may be produced or marketed.

(22) Paragraph 19 of the said subsection 8 (1) is amended by striking out "notwithstanding any other Act" in the first line.

(23) Paragraphs 27 and 33 of the said subsection 8 (1) are repealed and the following substituted therefor:

27. determining the constitution of negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators and conciliators and regulating the practice, procedure and methods of dispute resolution of such agencies, boards and arbitrators;

.

33. designating as farm products any natural products of agriculture.

(24) Paragraph 34 of the said subsection 8 (1) is amended by inserting after "the" in the third line "producing or".

(25) Paragraph 37 of the said subsection 8 (1) is amended by striking out “established for the control and regulation of the marketing of the regulated product” in the fourth, fifth and sixth lines.

(26) Paragraph 40 of the said subsection 8 (1) is amended by inserting after “agency” in the sixth line “of Canada”.

(27) Section 8 of the said Act is amended by adding thereto the following subsections:

(1a) A penalty imposed on a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producer for the regulated product marketed during the immediately preceding twelve month period by the producer and a 20 per cent reduction in the amount of regulated product which may be marketed during any twelve month period by the producer. Limitations
on penalties

(1b) A penalty imposed on a person other than a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the person. Idem

(28) Clause 8 (2) (a) of the said Act is amended by striking out “later” in the eighth line and inserting in lieu thereof “other”.

(29) Subsection 8 (6) of the said Act is amended by striking out “or orders or” in the third line and inserting in lieu thereof “orders, policies and decisions or”.

(30) Subsection 9 (1) of the said Act is amended by inserting before “marketing” in the fourth line “producing or”.

(31) Subclause 9 (1) (a) (i) of the said Act is repealed and the following substituted therefor:

- (i) to direct and control, by order or direction either as principal or agent, the producing or marketing of the regulated product, including the times and places at which the regulated product may be produced or marketed.

(32) Clause 9 (1) (b) of the said Act is amended by,

- (a) striking out “the Commission” in the second and third lines and inserting in lieu thereof “it”; and

- (b) striking out "the Commission" in the third line of subclause (ii) and inserting in lieu thereof "The Ontario Apple Marketing Commission".

(33) Clause 9 (4) (f) of the said Act is amended by inserting before "marketing" in the first line "producing or".

(34) Section 10 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Limitation on
powers of
local board

10. Where the Commission delegates to a local board powers or authorizes a local board to exercise powers under this Act or vests in a local board powers under this Act, the Commission may at any time,

.

(35) The said Act is amended by adding thereto the following section:

Director

11a.—(1) The Minister may appoint a Director for the purposes of this Act.

Duties of
director

(2) The Director shall exercise the powers and perform the duties conferred or imposed under this or any other Act.

(36) Subsection 13 (1) of the said Act is amended by,

- (a) inserting before "marketing" in the seventh line "producing or"; and
- (b) inserting before "marketing" in the third line of clause (b) "producing or".

(37) Subsection 13 (2) of the said Act is amended by inserting before "marketing" in the seventh line "producing or".

(38) Subsection 13 (3) of the said Act is amended by,

- (a) inserting after "the" in the eighth line of clause (a) "producing or"; and
- (b) inserting after "the" in the second line of clause (b) "producing or".

(39) Section 14 of the said Act is amended by striking out "Board or" in the eighth line and inserting in lieu thereof "Commission, Director or".

(40) Section 16 of the said Act is repealed and the following substituted therefor:

16. Every person who contravenes this Act or the regulations or any plan or any order or direction of the Commission, the Director or any local board, or any agreement or award or renegotiated agreement or award declared to be in force by the Commission is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$2,000 for each day that the offence continues and for a subsequent offence to a fine of not more than \$10,000 for each day that the offence continues. Offences

(41) Clause 17 (2) (b) of the said Act is amended by inserting before "marketing" in the second line "producing or".

(42) Clause 21 (2) (a) of the said Act is repealed.

(43) Subsection 21 (5) of the said Act is amended by inserting after "regulations" in the third line "policies".

(44) Subsection 21 (7) of the said Act is repealed.

(45) Clause 22 (2) (a) of the said Act is repealed.

(46) Subsection 22 (5) of the said Act is amended by inserting after "regulations" in the third line "policies".

3.—(1) Paragraph 4 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

4. "Commission" means the Ontario Farm Products Marketing Commission under the *Ministry of Agriculture and Food Act*. R.S.O. 1980,
c. 270

(2) Paragraph 22 of the said section 1 is amended by striking out "marketing" in the third line and inserting in lieu thereof "producing or marketing or both".

(3) Clause 2 (b) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 18, section 1, is amended by striking out "marketing" in the second line and in the fourth line and inserting in lieu thereof in each instance "producing or marketing".

(4) The heading immediately preceding section 3 of the said Act and section 3, as amended by the Statutes of Ontario, 1984, chapter 25, section 2, are repealed.

(5) Subsection 6 (1) of the said Act is amended by inserting before "marketing" in the fourth line "producing or".

(6) Clause 7 (1) (a) of the said Act is amended by inserting after "the" in the second line "producing or".

(7) Clause 7 (1) (f) of the said Act is amended by striking out "notwithstanding any other Act" in the first line.

(8) Subsection 7 (4) of the said Act is repealed and the following substituted therefor:

Marketing
board is
body
corporate
R.S.O. 1980,
cc. 95, 96

(4) Every marketing board is a body corporate to which the *Corporations Act* and the *Corporations Information Act* do not apply.

(9) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:

No personal
liability

(6) No member of a marketing board and no officer, clerk or employee of a marketing board is personally liable for anything done or omitted to be done by the board or by the member, officer, clerk or employee in good faith in the exercise of any power or the performance of any duty under or purporting to be under this Act or any other Act of Ontario or Canada.

(10) Paragraphs 2, 3, 4 and 5 of subsection 8 (1) of the said Act are repealed and the following substituted therefor:

2. prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;
3. providing that the Commission or marketing board may impose such terms and conditions upon a licence as the Commission or marketing board considers proper;
4. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence and except in compliance with the terms and conditions of the licence;
5. providing for the refusal to grant or renew or the suspension or revocation of a licence,
 - i. where the applicant or licensee is not qualified by experience, financial responsibility or

equipment to properly engage in the business for which the application was made or the licence granted, or

- ii. where the applicant or licensee has failed to comply with or has contravened any provision of this Act, the regulations, any plan or any order or direction of the Commission or marketing board or of a marketing agency of Canada;
- 5a. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Commission or marketing board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence or any provision of this Act, the regulations, any plan or any order or direction of the Commission or marketing board;
- 5b. providing for the fixing of licence fees and the payment thereof by any or all persons producing, marketing or processing a regulated product and the collecting of the licence fees and their recovery by suit in a court of competent jurisdiction.

(11) Paragraph 10 of the said subsection 8 (1) is repealed and the following substituted therefor:

10. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a person or class of persons engaged in the producing, marketing or processing of a regulated product and providing for the administration, forfeiture and disposition of any moneys or securities so furnished and the proceeds therefrom;
- 10a. authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing by any person engaged in the producing, marketing or processing of a regulated product.

(12) Paragraph 13 of the said subsection 8 (1) is repealed and the following substituted therefor:

13. providing for the control and regulation of the producing or marketing of any regulated product,

including the times and places at which the regulated product may be produced or marketed.

(13) Paragraph 21 of the said subsection 8 (1) is amended by striking out “notwithstanding any other Act” in the first line.

(14) Paragraph 28 of the said subsection 8 (1) is repealed and the following substituted therefor:

28. determining the constitution of negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators and conciliators and regulating the practice, procedure and methods of dispute resolution of such agencies, boards and arbitrators.

(15) Section 8 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 18, section 2, is further amended by adding thereto the following subsections:

Limitation on penalties

(1a) A penalty imposed on a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producer for the regulated product marketed during the immediately preceding twelve month period by the producer and a 20 per cent reduction in the amount of regulated product which may be marketed during any twelve month period by the producer.

Idem

(1b) A penalty imposed on a person other than a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the person.

(16) Clause 8 (2) (a) of the said Act is amended by striking out “later” in the eighth line and inserting in lieu thereof “other”.

(17) Subsection 8 (7) of the said Act is amended by striking out “or orders” in the fourth line and inserting in lieu thereof “orders, policies and decisions”.

(18) Subsection 8 (9) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Limitations on powers, etc., of marketing boards

(9) Where the Commission delegates to a marketing board powers or authorizes a marketing board to exercise powers under this Act, the Commission may at any time,

(19) Subsection 20 (1) of the said Act is amended by adding thereto the following paragraphs:

- 3a. providing that the Director may impose such terms and conditions upon a licence under paragraphs 1 and 2 as the Director considers proper;
- 3b. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Director is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence under paragraphs 1 and 2 or any provision of this Act, the regulations, any plan or any order or direction of the Commission.

(20) Paragraphs 4 and 48 of the said subsection 20 (1) are repealed and the following substituted therefor:

4. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a distributor or class of distributors or any person engaged in the operation of a plant or any class of plant;

.

48. regulating and prohibiting the addition to or removal from milk, cream or fluid milk products of any substance, and regulating and prohibiting the marketing of milk, cream or fluid milk products to which the substance has been added or from which the substance has been removed.

(21) Section 20 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2 and 1984, chapter 25, section 4, is further amended by adding thereto the following subsection:

(1a) A penalty imposed under paragraph 3b of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the distributor or person engaged in the operation of a plant.

Limitation on
penalties

(22) Section 22 of the said Act is repealed and the following substituted therefor:

22. Every person who contravenes this Act or the regulations, or any plan or any order or direction of the Commis-

Offences

sion, the Director or any marketing board, or any agreement or award or renegotiated agreement or award declared to be in force by the Commission, or any by-law under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$2,000 for each day that the offence continues and for a subsequent offence to a fine of not more than \$10,000 for each day that the offence continues.

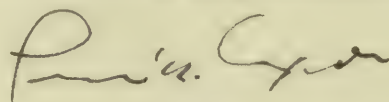
(23) Clause 24 (2) (b) of the said Act is amended by inserting before "marketing" in the second line "producing or".

**Commence-
ment**

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

5. The short title of this Act is the *Ministry of Agriculture and Food Statute Law Amendment Act, 1988*.

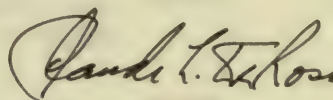


Bill 66

*(Chapter 60
Statutes of Ontario, 1988)*

An Act respecting Agricultural and Horticultural Organizations

The Hon. J. Riddell
Minister of Agriculture and Food



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 9th, 1987
<i>2nd Reading</i>	November 15th, 1988
<i>3rd Reading</i>	December 7th, 1988
<i>Royal Assent</i>	December 15th, 1988

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Bill 66

1987

An Act respecting Agricultural and Horticultural Organizations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

GENERAL

1. In this Act,

Definitions

“board” means the board of directors of an organization;

“Director” means the person appointed as Director under section 4;

“Minister” means the Minister of Agriculture and Food;

“organization” means an agricultural association, agricultural society or horticultural society to which this Act applies.

2. This Act applies to every agricultural association, agricultural society or horticultural society incorporated or continued under this Act.

Application

3.—(1) Every organization is a corporation without share capital.

Body
corporate

(2) The *Corporations Information Act* does not apply to an organization.

R.S.O. 1980,
c. 96 does
not apply

4. The Minister shall appoint an officer of the Ministry of Agriculture and Food to be the Director for the purposes of this Act.

Appointment
of Director

5. An organization may be incorporated under this Act if each applicant signs the articles of incorporation and the articles of incorporation are forwarded to the Director.

Articles of
incorporation

Contents of
articles

6. Articles of incorporation shall set out,

- (a) the name of the organization to be incorporated;
- (b) the type of organization;
- (c) the objects for which the organization is to be incorporated;
- (d) the place in Ontario where the registered office of the organization is to be located;
- (e) the names and addresses of one or more proposed first directors;
- (f) the names and addresses of the members of the organization; and
- (g) any other matter required by this Act or the regulations to be set out in the articles.

Certificate of
incorporation

7.—(1) If the Minister is satisfied that the requirements of this Act have been met and it is in the public interest to do so, the Minister may issue a certificate of incorporation to which is attached a copy of the articles of incorporation.

Date of
incorporation

(2) An organization comes into existence on the date set out in its certificate of incorporation.

Name

8.—(1) An organization shall bear the name designated in the articles of incorporation.

Dispute over
name

(2) If there is a dispute as to the name of an organization or if, in the opinion of the Minister, the name of an organization prejudicially affects the interests of another organization or corporation, the Minister may issue a certificate of amendment to the articles of incorporation changing the name of the organization.

Amendments
to articles

9. An organization may by by-law, with the approval of the Minister, amend its articles of incorporation to change any provision set out in its articles including its name.

Annual
meeting

10.—(1) Each organization shall hold an annual meeting of its members not later than six months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting or such other time as the Director may approve.

(2) The time and place of the annual meeting shall be set out in a by-law of the organization. Idem

(3) At least two weeks notice of the annual meeting shall be given by mailing it to each member of the organization and, Notice of annual meeting

(a) by publishing it in a newspaper generally circulated in the area of the headquarters of the organization; or

(b) by publishing it in a periodical that is generally circulated in the agricultural or horticultural community, as appropriate.

11.—(1) The members of each organization, at the annual meeting, shall elect a board of directors. Board of directors

(2) The number of directors, their representation of certain districts or classes of members, and their method of selection shall be set out in the by-laws of the organization. Idem

(3) The directors shall appoint a treasurer or secretary-treasurer. Treasurer and secretary-treasurer

(4) Subject to subsection (3), the officers of the organization shall be appointed in the manner set out in the by-laws of the organization. Officers

(5) At each annual meeting, the retiring directors of the board shall present a report of the activities of the organization during the previous year and the audited financial statement for the previous year. Annual report and financial statement

12.—(1) Every board shall require the treasurer or secretary-treasurer to give security to cover against any loss of the funds of the organization. Security against loss

(2) Every board shall, in each year, inquire into the sufficiency of the security. Sufficiency of security

(3) If the security is insufficient, each director of the board is personally liable for any loss suffered by the organization thereby. Directors responsible for loss

13. No compensation shall be paid to a director, officer or member of an agricultural society or horticultural society, other than the treasurer, secretary-treasurer or secretary but reasonable expenses incurred by a director, officer or member in the performance of his or her duties may be paid. Compensation

Meetings of
the board

14. A meeting of the board shall be called by the secretary upon the direction of the president or of any three members of the board by sending notice thereof to all the members of the board at least seven days before the time fixed for the meeting.

Annual
reports

15.—(1) Every organization shall, within ninety days of the annual meeting of the organization, submit to the Director,

- (a) a copy of the audited financial statement;
- (b) a statement of the number of current members;
- (c) a list of the directors and officers of the organization and their addresses; and
- (d) a copy of the annual report submitted at the annual meeting.

Information
to be public

(2) The information filed under subsection (1) shall be open to examination by the public upon request to the Director.

Director may
require
information

(3) The Director may require an organization or an officer of the organization to furnish such information regarding the organization that the Director considers necessary or advisable.

Affidavits as
to accuracy

(4) The Director may require that any information submitted under subsection (3) be accompanied by an affidavit of all or any of the officers of the organization deposing as to its accuracy.

Offence

16. Any officer, director or auditor of an organization who makes a false statement in any report or information required under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Legislative
grant

17.—(1) The Minister may make grants in the amount and to the organizations prescribed by regulation out of the moneys appropriated by the Legislature for such purposes.

Condition of
grant

(2) It is a condition of the payment of a grant that none of the funds of the organization, from whatever source derived, have been expended in a manner inconsistent with the objects of the organization.

(3) The Minister may appoint a person to inspect the books and accounts of any organization and the books and accounts of the organization shall be made available for that purpose.

Inspection

18.—(1) If an organization fails to comply with section 15, the Minister may cancel the certificate of incorporation of the organization and it is dissolved on the date specified by the Minister.

Dissolution
for cause

(2) No organization shall be dissolved under this section unless twelve months notice has been given to the board of the organization by the Minister of the intention to dissolve the organization and the board is given the opportunity to bring the organization into good standing within that time.

Notice of
dissolution

19. An organization may be dissolved by the Minister upon the authorization of a special resolution passed at a meeting of the members of the organization duly called for that purpose.

Dissolution
upon request

20.—(1) If an organization is dissolved by the Minister, the persons comprising the board at the date of dissolution are the trustees of the assets of the organization and shall deliver to the Director a statement of the assets and liabilities of the organization.

Trustees

(2) The Director may direct the trustees to pay the debts of the organization and liquidate any of the assets for such purposes.

Payment of
debts on
dissolution

(3) Subject to the approval of the Director, all money and assets remaining after the payment of debts shall be disposed of by the trustees in such manner as they may determine.

Disposition
of assets

PART II

AGRICULTURAL ASSOCIATIONS

21.—(1) This Part applies to agricultural associations.

Application

(2) Every agricultural association incorporated under the *Agricultural Associations Act* is continued as an agricultural association under this Act.

Associations
continued
R.S.O. 1980,
c. 8

22. An association or group of persons formed for the purpose of advancing agriculture may be incorporated under this Act as an agricultural association.

Eligibility for
incorporation

23. The objects of an agricultural association are,

Objects

- (a) to promote the development, sale and export of agricultural products; and
- (b) to provide educational opportunities related to agriculture and rural life.

Minimum
membership

24. The Lieutenant Governor in Council may by regulation establish the minimum membership required for an agricultural association to be incorporated under this Act.

PART III

AGRICULTURAL SOCIETIES

Application

25.—(1) This Part applies to agricultural societies.

Societies
continued
R.S.O. 1980,
c. 14

(2) Every agricultural society incorporated under the *Agricultural Societies Act* is continued as an agricultural society under this Act.

Deemed
societies

(3) The Western Fair Association and Central Canada Exhibition are deemed to be agricultural societies incorporated under this Act.

Criteria for
incorporation

26. An agricultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least sixty persons who reside within forty kilometres of the place designated as the headquarters of a society; and
- (b) at least twenty of the incorporators are engaged in an agricultural occupation.

Refusal to
incorporate
society

27. If the headquarters of a proposed agricultural society is within forty kilometres of the headquarters of an existing society, the Minister shall notify the existing society and if it objects to the proposed society, the Minister may refuse to incorporate the proposed society.

Objects

28. The objects of an agricultural society are to encourage an awareness of agriculture and to promote improvements in the quality of life of persons living in an agricultural community by,

- (a) researching the needs of the agricultural community and developing programs to meet those needs;
- (b) holding agricultural exhibitions featuring competitions for which prizes may be awarded;

- (c) promoting the conservation of natural resources;
- (d) encouraging the beautification of the agricultural community;
- (e) supporting and providing facilities to encourage activities intended to enrich rural life; and
- (f) conducting or promoting horse races when authorized to do so by a by-law of the society.

29. If an agricultural society has not held an annual meeting in the time period prescribed under subsection 10 (1), the Director may appoint a time and place for the meeting to be held.

Failure to
hold annual
meeting

30. The land, as defined in the *Assessment Act*, occupied by an agricultural society or a tenant of a society is exempt from taxes for municipal and school purposes, other than local improvement rates, so long as the land or the proceeds from the rental of the land is used solely for the purposes of the society.

Tax
exemption
R.S.O. 1980,
c. 31

31. The board of a society may pass by-laws,

By-laws
respecting
exhibition
grounds

- (a) prohibiting any theatrical, circus or acrobatic performance; and
- (b) regulating the sale of goods and produce,

on exhibition grounds operated by the society or within 275 metres thereof on the day of an exhibition organized by the society.

32. Any person may join an agricultural society by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society.

Membership
open

PART IV

HORTICULTURAL SOCIETIES

33.—(1) This Part applies to horticultural societies.

Application

(2) Every horticultural society incorporated under the *Horticultural Societies Act* is continued as a horticultural society under this Act.

Societies
continued
R.S.O. 1980,
c. 204

Society
may be
incorporated
R.S.O. 1980,
c. 302

34.—(1) A horticultural society may be incorporated to carry out its objects in any local municipality, as defined in the *Municipal Act*, having a population of not less than 200.

Additional
societies

(2) In a local municipality, having a population of not less than 25,000, there may be two horticultural societies and for each additional 25,000 of population, there may be an additional society.

Where
municipal
reorgani-
zation

(3) A reorganization, amalgamation or boundary alteration of a municipality does not affect any horticultural society that has been incorporated prior thereto.

Criteria for
incorporation

35. A horticultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least twenty-five persons in a territorial district or fifty persons elsewhere in Ontario; and
- (b) the incorporators are residents of the municipality or municipalities in which the society is to be incorporated.

Objects

36. The objects of a horticultural society are to encourage interest and improvement in horticulture,

- (a) by holding meetings respecting the theory and practice of horticulture;
- (b) by encouraging the planting of trees, shrubs and flowers on public and private grounds;
- (c) by promoting balcony and community gardening and outdoor beautification;
- (d) by arranging field trips, contests, competitions and exhibitions related to horticulture and awarding prizes;
- (e) by distributing seeds, plants, bulbs, flowers, trees and shrubs;
- (f) by promoting the protection of the environment;
- (g) by promoting the circulation of horticultural information through any media;
- (h) by promoting the benefits of therapeutic horticulture; and

- (i) by stimulating an interest in the study of horticulture.

37. A horticultural society shall not spend more than one-half of its total annual receipts, excluding grants or donations made for specific purposes, upon any one of the projects enumerated in section 36 except for the planting of trees, shrubs and plants on public grounds and the promotion of outdoor beautification.

Expenditures
restricted

38.—(1) Any person may join a horticultural society by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society.

Eligibility for
membership

(2) Except as otherwise provided in the by-laws of a horticultural society, a partnership or corporation or an association directed towards horticultural interests may become a member of the society upon payment of the annual fee and shall designate one person to exercise the privilege of membership in the society.

Types of
membership

39. Every horticultural society is entitled to be affiliated with the Ontario Horticultural Association upon payment of the fees established by the Association.

Affiliation

40. The board of a horticultural society may pass by-laws respecting the awarding of prizes for a product at an exhibition of the society.

By-laws
respecting
prizes

PART V

MISCELLANEOUS

41. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing the terms and conditions upon which an agricultural society may hold races or trials of speed for horses and the amount of the prizes awarded therefor;
- (b) prescribing those organizations that are eligible to receive grants and prescribing the terms and conditions under which the grants may be paid;
- (c) establishing the amounts of any grants payable and the minimum or maximum amounts of such grants;

- (d) establishing a formula for determining the amount of any grant payable;
- (e) prescribing the powers and duties of the officers of any organization;
- (f) prescribing matters to be set out in the articles of incorporation;
- (g) prescribing criteria to be contained in the by-laws of a specific organization or of any class of organization;
- (h) respecting the expenditures of an organization and the filing of information related to such expenditures;
- (i) prescribing matters to be set out in the annual report;
- (j) respecting the names of organizations and the filing of documents relating to the names and requiring the registration of the names in the manner set out in the regulations.

Repeals

42. The following are repealed:

1. The *Agricultural Associations Act*, being chapter 8 of the Revised Statutes of Ontario, 1980.
2. The *Agricultural Societies Act*, being chapter 14 of the Revised Statutes of Ontario, 1980.
3. The *Agricultural Societies Amendment Act, 1982*, being chapter 51.
4. The *Horticultural Societies Act*, being chapter 204 of the Revised Statutes of Ontario, 1980.
5. The *Horticultural Societies Amendment Act, 1982*, being chapter 52.

43. Section 11a of the *Canadian National Exhibition Association Act, 1983*, being chapter Pr23, as enacted by the Statutes of Ontario, 1985, chapter Pr8, section 3, is repealed and the following substituted therefor:

Deemed
agricultural
society
1988, c. 60

11a.—(1) The Association shall be deemed to be an agricultural society organized under the *Agricultural and Horticultural Organizations Act, 1988*.

(2) Notwithstanding subsection (1), subsection 3 (2), sections 10, 11, 12, 13, 14, 15, 18, 19, 20, 26, 27, 29 and 32 of the *Agricultural and Horticultural Organizations Act, 1988* do not apply to the Association.

Non-appli-
cation of
certain
provisions

(3) The *Corporations Information Act* applies to the Association.

R.S.O. 1980,
c. 96 applies

44. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

45. The short title of this Act is the *Agricultural and Horticultural Organizations Act, 1988*.

Short title

Bill 68

(Chapter 41
Statutes of Ontario, 1988)

An Act to promote the Conservation of Certain Land

The Hon. V. Kerrio
Minister of Natural Resources

Paul H. D. Rozie

CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 14th, 1987
<i>2nd Reading</i>	June 22nd, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

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Bill 68**1987****An Act to promote the Conservation of Certain Land**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,**Definitions**

“areas of natural and scientific interest” means areas of land and water containing natural landscapes or features that have been identified by the Ministry of Natural Resources as having values related to protection, natural heritage appreciation, scientific study or education;

“conservation authority land” means land owned by a conservation authority;

“conservation land” includes wetland, areas of natural and scientific interest, land within the Niagara Escarpment Planning Area, conservation authority land and such other land owned by non-profit organizations that through their management contribute to provincial conservation and heritage program objectives;

“Minister” means the Minister of Natural Resources;

“Niagara Escarpment Planning Area” means the geographic area contained within the Niagara Escarpment Plan;

“wetland” means land,

- (a) that is seasonally or permanently covered by shallow water, or
- (b) in respect of which the water table is close to or at the surface,

so that the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic or water tolerant plants.

Establish-
ment of
programs

2.—(1) The Minister, subject to the approval of the Lieutenant Governor in Council, may establish programs to recognize, encourage and support the stewardship of conservation land.

Grants

(2) A program established under subsection (1) shall provide for the payment of grants in respect of such classes of conservation land as the Minister considers appropriate subject to such conditions precedent or subsequent as the Minister considers necessary.

Moneys

(3) The moneys required for the purposes of a program shall be paid out of the Consolidated Revenue Fund and, after the 31st day of March, 1989, out of the moneys appropriated therefor by the Legislature.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

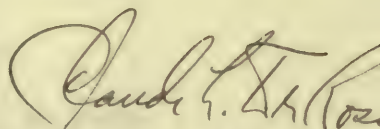
4. The short title of this Act is the *Conservation Land Act, 1988*.

Bill 69

*(Chapter 1
Statutes of Ontario, 1989)*

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 14th, 1987
<i>2nd Reading</i>	January 11th, 1989
<i>3rd Reading</i>	February 23rd, 1989
<i>Royal Assent</i>	February 27th, 1989

Bill 69

1987

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following clauses:

- (za) issue guidelines respecting the keeping of pupil records and require boards to comply with the guidelines;
- (zb) approve awards for the purpose of subclause 48 (7) (f) (iv);
- (zc) require boards to establish and maintain a policy of affirmative action with respect to the employment and promotion of women;
- (zd) provide an assessment equalization factor,
 - (i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,
 - (ii) for each locality,
 - (iii) for each public school section that comprises only territory without municipal organization, and

(iv) for each separate school zone that comprises only territory without municipal organization,

and determine the assessment roll to which each such factor applies;

(ze) provide interim and final weighting and adjustment factors for the purposes of the regulations;

(zf) prescribe the number of instalments in which payments of legislative grants shall be paid to boards, the dates upon which the payments shall be made and the amounts of the payments as a percentage of the total amount estimated by the Minister to be payable to the boards;

(zg) approve the entering into of an agreement by boards under subsection 159a (1).

(2) Section 8 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following subsection:

Additional
powers of
Minister

(1a) The Minister may, for the purposes of the calculation and payment of legislative grants,

(a) approve classes, courses and programs;

(b) approve adult basic education as defined in subsection 165a (1) provided for boards by,

(i) colleges of applied arts and technology, and

(ii) community groups; and

(c) prescribe the standards that shall be attained by a community group in respect of the provision of adult basic education under subsection 165 (3) and the criteria that shall be used to determine whether the standards are attainable.

2.—(1) Paragraph 14 of subsection 10 (1) of the said Act is amended by striking out “and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools” in the fifth, sixth and seventh lines.

(2) Paragraphs 15 and 16 of the said subsection 10 (1) are repealed and the following substituted therefor:

15. providing for the holding of examinations for persons to become supervisory officers and governing such examinations.
- supervisory officers, examinations

(3) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsection:

(2) The Metropolitan Toronto School Board may, subject to the regulations in respect of evening classes, provide during the school day or outside the school day a program for adults, who by reason of age do not have the right to attend a school or class operated by the School Board for exceptional pupils whose intellectual functioning is below that of a person with mild retardation and,

Provision of evening classes by The Metropolitan Toronto School Board

- (a) are otherwise qualified to be resident pupils of a board of education that has jurisdiction in The Municipality of Metropolitan Toronto; or
- (b) not being qualified to be resident pupils as mentioned in clause (a), were pupils in such a school or class operated by the School Board.

(4) Clause 10 (3) (a) of the said Act is amended by striking out "providing for" in the first line and inserting in lieu thereof "governing".

(5) Subclause 10 (3) (c) (ii) of the said Act is amended by inserting after "enrolment" in the second line "portion, number, estimate, facility, unit, project".

(6) Clause 10 (3) (c) of the said Act is amended by striking out "and" at the end of subclause (iii) and by adding thereto the following subclauses:

- (v) applying factors in the calculation of the grants, and
- (vi) authorizing the Minister to adjust amounts of assessment.

(7) Clause 10 (3) (e) of the said Act is amended by striking out "calculating" in the first line and inserting in lieu thereof "determining".

(8) Subsection 10 (3) of the said Act is amended by adding thereto the following clauses:

- (g) providing for the payment of moneys to assist in the cost of the establishment and maintenance of schools referred to in paragraph 14 of subsection (1);
- (h) providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;
- (i) governing the provision of assistance for the payment of the cost of education of pupils who,
 - (i) reside in the territorial districts, on lands held by the Crown in right of Canada or Ontario or by an agency of Canada or Ontario or on other lands that are exempt from taxation for school purposes,
 - (ii) are qualified to be resident pupils in respect of a school section, separate school zone or secondary school district in Ontario and receive elementary or secondary education in Manitoba or Quebec, as the case may be, where, in the opinion of the Minister, daily transportation to a school in Ontario or the provision of board, lodging and transportation to and from a school in Ontario once a week is impracticable,
 - (iii) are wards of or in care of a children's aid society, or
 - (iv) are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;
- (j) providing for payments to a board for the purpose of limiting in a year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,
 - (i) a municipality or part thereof, or
 - (ii) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board.

(9) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:

(3a) A regulation made under subsection (3) may,

Idem

- (a) be general or particular in its application;
- (b) with respect to clause (3) (e), prescribe the maximum amount of any fee that may be charged; or
- (c) with respect to clause (3) (e), provide for the determination of fees by boards.

.

(12) A regulation made under this section that applies to The Metropolitan Toronto School Board may,

Idem

- (a) deem The Metropolitan Toronto School Board and the boards of education in The Municipality of Metropolitan Toronto to be one divisional board of education; and
- (b) deem the area municipalities in The Municipality of Metropolitan Toronto to be one urban municipality.

3. Subsection 48 (6) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 12, is repealed and the following substituted therefor:

(6) Despite any other provision of this Part, if a board admits a person who is not a Canadian citizen or a permanent resident to a school that the board operates, the board shall charge the person the maximum fee calculated in accordance with the regulations.

Fees for pupils

(7) Subsection (6) does not apply to,

Application of sub. (6)

- (a) a person who is a participant in an educational exchange program under which a pupil of the board attends a school outside Canada without a fee;
- (b) a person who enrolled in an elementary school or a secondary school prior to the 1st day of July, 1982;
- (c) a person who is a dependant within the meaning of the *Visiting Forces Act* (Canada);

R.S.C. 1985,
c. V-2

R.S.C. 1985,
c. 1-2

- (d) a person who is in Canada under a diplomatic, consular or official acceptance issued by the Department of External Affairs;
- (e) a person who claims to be or is found to be a convention refugee under the *Immigration Act* (Canada);
- (f) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada,
 - (i) pursuant to employment authorization or ministerial permit issued by the Department of Employment and Immigration,
 - (ii) under a diplomatic, consular or official acceptance issued by the Department of External Affairs,
 - (iii) awaiting determination of a claim to be found a convention refugee under the *Immigration Act* (Canada),
 - (iv) as a graduate student who is the recipient of an award approved by the Minister for the purposes of this clause and who is in attendance at a university or institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities, or
 - (v) in accordance with an agreement with a university outside Canada to teach at an institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities; or
- (g) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada as a convention refugee under the *Immigration Act* (Canada).

4.—(1) Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15 and 1988, chapter 27, section 4, is further amended by adding thereto the following clause:

- (b) assign a name to a divisional board that has jurisdiction in a territorial district.

(2) Subsection 54 (4) of the said Act is amended by inserting after "City of" " " in the third and fourth lines "or "Conseil de l'éducation de la cité de" or both".

(3) Subsection 54 (5) of the said Act is amended by inserting after "Education" " " in the third line "or "Conseil de l'éducation du comté de" or both".

(4) Subsection 54 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by inserting after "Education" " " in the seventh line "or "Conseil de l'éducation de" or both".

(5) Subsection 54 (7) of the said Act is amended by inserting after "Education" " " in the third line "or "Conseil de l'éducation de" or both".

(6) Section 54 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following subsection:

(8) The name of a divisional board may be as follows where Bilingual
approved by the Minister:

"Conseil de l'éducation de Board of
Education" (*inserting the name of the
defined city, county or name approved by
the Minister or assigned by the regulations*).

5.—(1) Subsection 60 (3) of the said Act is amended by inserting after "of" " " in the third line "or "Conseil de l'éducation de" or both".

(2) Subsection 60 (4) of the said Act is amended by inserting after "Education" " " in the third line "or "Conseil de l'éducation de" or both".

6. Subsection 62 (5) of the said Act is amended by inserting after "Board" " " in the third line "or "Conseil du secteur scolaire de district de" or both".

7.—(1) Clause 83 (5) (a) of the said Act is amended by inserting after "Board" " " in the second line "or "Conseil des écoles séparées catholiques de" or both".

(2) Clause 83 (5) (b) of the said Act is amended by inserting after "Board" " " in the third line "or "Conseil des écoles séparées catholiques de" or both".

8. Subsection 84 (2) of the said Act is amended by inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques de" or both".

9. Subsection 87 (4) of the said Act is amended by inserting after "Board" " " in the third line "or "Conseil fusionné des écoles séparées catholiques de" or both".

10.—(1) Subsection 111 (1) of the said Act is amended by inserting after "Board" " " in the fourth line "or "Conseil des écoles séparées catholiques du comté de" or both".

(2) Subsection 111 (2) of the said Act is amended by inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques du comté de" or both".

(3) Subsection 111 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by inserting after "Board" " " in the amendment of 1982 "or "Conseil des écoles séparées catholiques du district de" or both".

(4) Subsection 111 (4) of the said Act is amended by,

- (a) striking out "117 and 118" in the second line and inserting in lieu thereof "116 and 117"; and
- (b) inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques de" or both".

(5) Section 111 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by adding thereto the following subsection:

Bilingual

(5) The name of a county or district combined separate school board may be as follows where approved by the Minister:

"Conseil des écoles séparées catholiques de de (County or District) Roman Catholic Separate School Board" (*inserting the name of the county or counties, district or districts, name selected by the board and approved by the Minister or name of area designated by the regulations*).

11. Subsection 116 (2) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 22, is further amended by inserting after "Board" "in the third line "in English and "Conseil des écoles séparées catholiques d'Ottawa" in French".

12. Subsection 117 (2) of the said Act is amended by inserting after "Board" "in the third line "in English and "Conseil des écoles séparées catholiques de Carleton" in French".

13. Section 130 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 23, section 8, is further amended by adding thereto the following subsections:

(5a) Where the arbitrators conclude that it would be more just and equitable in the interests of the supporters of the board for the board when setting the rates to be levied in a year to have apportioned its requirements in accordance with a regulation made under section 214 in respect of the year, the arbitrators shall so advise the board when they have determined and reported the factors under subsection (5). Apportionment under s. 214

(5b) After being advised under subsection (5a), the board may resolve to apportion its requirements in accordance with the regulation that applies for the year. Resolution of board

(5c) A board that resolves to apportion under subsection (5b) shall forthwith notify the Minister of its decision. Notice

(5d) The review referred to in section 214 does not apply in the case of a board that acts under subsection (5b). Non-application

14.—(1) Subsection 136e (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by inserting after "to" in the second line "in addition to conditions that may be made under clause 10 (3) (b)".

(2) Section 136e of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsection:

(5) A regulation made for the purposes of this section, Regulations

(a) may be general or particular in its application; or

(b) may provide for the withholding or repayment of all or part of a grant where a condition of the grant is not satisfied.

15. Section 136i of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsections:

Application
of sub. (1)

(1a) Subsection (1) does not apply where a public board has part of the same area of jurisdiction as a Roman Catholic school board as a result of the fact that a separate school zone that comprises part of the county or district combined Roman Catholic separate school zone for which the Roman Catholic school board was established has a centre that is situate within 4.8 kilometres of the boundary of the public board and is not situate within the area of jurisdiction of the public board.

Idem

(1b) Part VII-A applies with respect to the election of members elected by separate school electors to a public board to which subsection (1a) applies as if the coterminous Roman Catholic separate school board as defined in subsection 206a (1) was not a Roman Catholic school board.

16. Section 145 of the said Act is amended by inserting after “the ...” in the third line “or “Conseil des écoles séparées protestantes de ...” or both”.

17.—(1) Paragraph 19 of subsection 150 (1) of the said Act is amended by inserting after “moneys” in the first line “other than moneys held in a reserve fund and that are”.

(2) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984, chapter 60, section 10, is further amended by adding thereto the following paragraph:

idem

19a. invest moneys held in a reserve fund in,

R.S.O. 1980,
c. 218

i. guaranteed contracts issued by an insurer licensed under the *Insurance Act*, and

R.S.O. 1980,
c. 512

ii. such securities as a trustee may invest in under the *Trustee Act* provided that all interest and gain thereon is credited to the fund from which the moneys are invested.

(3) Paragraph 38 of subsection 150 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 10, is amended by adding at the end thereof “or a demonstration school for exceptional pupils”.

(4) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984,

chapter 60, section 10, is further amended by adding thereto the following paragraph:

46. designate portions of current expenditure of the board as ordinary expenditures for the purposes of legislative grants provided for by a regulation made under subsection 10 (3). designation of expenditures

18. The said Act is amended by adding thereto the following section:

150a. Where in any Act, other than this Act, a board, Board name
other than a board that by an Act is given a name in the French language, is given a name in English, the board shall be known by such name in French as the board may by resolution select and the Minister may approve.

19. Section 154 of the said Act is amended by adding thereto the following paragraph:

- 1a. provide for any or all of the members of the board any benefit that may be provided for the employees of the board under section 155 and any other benefits of a like nature that the board considers appropriate. benefits

20. Subclause 155 (1) (a) (i) of the said Act is amended by adding at the end thereof "and their spouses and children".

21. The said Act is further amended by adding thereto the following section:

159a.—(1) A public board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a Roman Catholic school board may, with the approval of the Minister, enter into an agreement with the Roman Catholic school board to transfer a secondary school established and operated under Part XI or a French-language instructional unit as defined in section 277c to the Roman Catholic school board. Transfer of French-language instructional unit

(2) A transfer of a secondary school referred to in subsection (1) is not a closing of the secondary school. Transfer not a closing

22. Section 165a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 45, is amended by adding thereto the following subsection:

(3) A board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in Idem

writing with a community group for the provision by the group of adult basic education that is approved by the Minister.

23. Subsection 166 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 216, is further amended by,

- (a) striking out "severe learning disabilities" in the fifth line and inserting in lieu thereof "severe communicational exceptionalities"; and
- (b) striking out "premises approved under subsection 9 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* for the provision of a child development service or child treatment service" in the amendment of 1984 and inserting in lieu thereof "a place where an agency approved under subsection 8 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* provides a child development service, a child treatment service or a child and family intervention service".

24. Subsection 167 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, subsections (1a), (1b) and (1c), as enacted by the Statutes of Ontario, 1982, chapter 32, section 47, and subsection (2), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, of the said Act are repealed and the following substituted therefor:

Allowance
for members

(1) A board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof.

Chairman
and vice-
chairman

(2) A board may pay an allowance in such amount as is determined by the board in addition to the allowance payable under subsection (1) to the chairman and vice-chairman of the board and to the chairmen of committees of the board.

Different
allowances

(2a) The additional allowance payable to the chairman may differ from the additional allowance payable to the vice-chairman.

Basis of
allowance

(2b) A member of a board of education elected by separate school electors, a member of the board elected for the purposes of Part XI-A and a member appointed to the board is entitled to an allowance on the same basis as a member of the board elected by public school electors.

(2c) A trustee of a separate school board elected for the purposes of Part XI-A or appointed to the board is entitled to an allowance on the same basis as a trustee who is elected, other than for the purposes of Part XI-A, by separate school electors. Idem

(2d) A board may at any time decrease any allowance payable to members, the chairman or the vice-chairman of the board. Decrease in allowance

(2e) Where the French-language education council, English-language education council, French-language section or English-language section of a board has a chairman or a vice-chairman of the council or section, as the case may be, the council or section may authorize an additional allowance, not to exceed that paid to the chairman or vice-chairman of the board under subsection (2), to be paid to the chairman or vice-chairman of the council or section. Chairman and vice-chairman of council or section

(2f) A chairman or vice-chairman of a council or section may only be paid one additional allowance. Idem

(2g) An allowance payable under subsection (1), (2) or (2e) with respect to a French-language education council or French-language section shall be included as part of centralized services for the purposes of allocating amounts under section 277n. Allocation of cost

25. Subsection 196 (1a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 53, is amended by striking out “subsection (2)” in the eleventh line and inserting in lieu thereof “subsection (3)”.

26. Subsection 217 (1) of the said Act is amended by,

- (a) adding after “note” in the fourth line “or a banker’s acceptance that is drawn as a bill of exchange under the *Bills of Exchange Act* (Canada) on a bank to which the *Bank Act* (Canada) applies”; and
- (b) striking out “minimum lending rate of the majority of chartered banks on the date of borrowing” in the ninth and tenth lines and inserting in lieu thereof “prime lending rate on the date of borrowing, of the chartered banks listed in Schedule A of the *Bank Act* (Canada)”.

27. Subsection 237 (1) of the said Act is amended by adding at the end thereof “and the guidelines issued by the Minister”.

28. Section 252 of the said Act is amended by adding thereto the following subsections:

Idem

(2) Two or more boards of education that each have an enrolment in its public and secondary schools of fewer than 2,000, two or more district school area boards or a board of education and a district school area board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.

Idem

(3) Two or more county or district combined separate school boards that each have an enrolment in its schools of fewer than 2,000, two or more rural or combined separate school boards or a rural or combined separate school board and a district combined separate school board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.

29. Subsections 277s (1), (2) and (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted therefor:

Notice to
Minister

(1) Where a French-language section becomes aware that it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify in writing the full board of such fact and the effective date thereof and the board shall forthwith notify in writing the Minister.

Dissolution

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the thirtieth day next following the date upon which the section ceases to operate a unit or provide the education referred to in subsection (1) and the members shall cease to hold office on that date.

Revocation
of notice

(3) A board, upon written request of the French-language section of the board that is received before the dissolution of the French-language section of the board, shall revoke by notice in writing delivered to the Minister, a notice given to the Minister under subsection (1).

(3a) Where a public board agrees to transfer a secondary school established and operated under Part XI to a Roman Catholic school board under section 159a, the agreement to transfer is not an agreement referred to in subsections 277d (2) and (3).

Section 159a
agreement
distinguished

30.—(1) Subclause 127 (1) (g) (v) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(v) may provide for expenditures for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the *Education Act* and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii and iii of paragraph 34 of subsection 1 (1) of that Act and any sum allocated to a reserve fund do not exceed,

R.S.O. 1980,
c. 129

(A) for secondary school purposes, an amount that would increase the sum that would be required to be raised by levy for secondary school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill of the dollar upon the total equalized assessments of the area municipalities for public secondary school purposes, and

(B) for public school purposes, an amount that would increase the sum that would be required to be raised by levy for public school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill in the dollar upon the total equalized assessments of the area municipalities for public elementary school purposes.

(2) Subsection 127 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(1b) The School Board may pay an allowance in such amount as is determined by the School Board in addition to

Allowance to
vice-chairman

the allowance payable under clause (1a) (a) or (b) to the vice-chairman of the School Board.

Different
allowances

(1ba) An allowance payable to the chairman may differ from that payable to the vice-chairman.

(3) Subsection 127 (1c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is amended by inserting after "subsection (1a)" in the second line "or (1b)".

(4) Subsection 127 (7) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6 and amended by the Statutes of Ontario, 1984, chapter 10, section 1, is further amended by adding thereto the following clause:

(ba) "total equalized assessments of the area municipalities" means for public secondary school purposes and for public elementary school purposes the sum of the assessment upon which taxes are levied for such purposes in each area municipality in the year for which the estimates are approved in whole or in part by the School Board where the assessment of each area municipality is adjusted by the application of the latest equalization factor applicable thereto that is provided by the Minister.

Reserve fund
for public
school
purposes,
application
in 1989

31. Moneys that were held by a municipality as of the 31st day of December, 1986 and are still being held and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1989 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality.

Commence-
ment

32.—(1) This Act, except section 13, comes into force on the day it receives Royal Assent.

Idem

(2) Section 13 shall be deemed to have come into force on the 1st day of January, 1988.

Short title

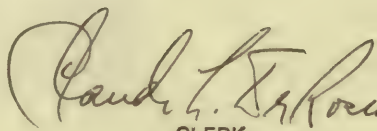
33. The short title of this Act is the *Education Amendment Act, 1989*.

Bill 70

*(Chapter 2
Statutes of Ontario, 1989)*

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 15th, 1987
<i>2nd Reading</i>	January 11th, 1989
<i>3rd Reading</i>	February 23rd, 1989
<i>Royal Assent</i>	February 27th, 1989

Bill 70

1987

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 17, 1982, chapter 20, section 2, 1982, chapter 32, section 1, 1984, chapter 60, section 1, 1986, chapter 21, section 1 and 1988, chapter 27, section 1, is further amended by adding thereto the following paragraphs:

- 6a. “continuing education instructor” means a person employed to provide instruction in a continuing education course or class established in accordance with the regulations other than those courses or classes for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations;
- 6b. “continuing education teacher” means a teacher employed to teach a continuing education course or class established in accordance with the regulations for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations.

(2) Paragraph 31 of subsection 1 (1) of the said Act is amended by adding after “probationary” in the second line “, continuing education teacher”.

2.—(1) Paragraph 13 of subsection 10 (1) of the said Act is amended by striking out “permanent teacher or a probationary teacher” in the third line and inserting in lieu thereof “permanent, probationary or continuing education teacher”.

(2) Subsection 10 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, is further amended by adding thereto the following paragraphs:

idem 15a. defining and governing continuing education courses and classes;

continuing education courses and classes 15b. prescribing the continuing education courses and classes for which a valid certificate of qualification or a letter of standing as a teacher is required.

3. Paragraph 29 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

continuing education 29. establish continuing education courses and classes.

4. Subsection 230 (1) of the said Act is repealed and the following substituted therefor:

Full-time or part-time teacher (1) A full-time or part-time teacher who is employed by a board shall be employed as a permanent or probationary teacher with respect to those teaching duties with the board that are not related to the teacher's employment as an occasional teacher, a continuing education teacher or a continuing education instructor.

5. The said Act is amended by adding thereto the following section:

Continuing education teachers **230a.**—(1) A continuing education teacher shall be employed on a contract of employment in writing in the form of the continuing education teacher's contract prescribed by the regulations.

Application of subs. (1) (2) Subsection (1) does not apply to an occasional teacher who is employed as a substitute for a continuing education teacher.

Contract (3) A continuing education teacher's contract shall be signed by the parties and sealed with the seal of the board before or after the teacher enters upon the duties of the teacher.

Full-time or part-time teacher and continuing education teacher (4) A teacher who is employed by a board as a continuing education teacher may be employed by another board as a full-time or part-time teacher.

Permanent or probationary teacher and continuing education teacher (5) Notwithstanding subsection (1), where a teacher and a board agree, a full-time or part-time teacher who is employed by the board as a permanent teacher and as a continuing education teacher or as a probationary teacher and a continuing education teacher may be employed under the teacher's con-

tract as a permanent teacher or probationary teacher, as the case requires.

(6) Notwithstanding subsection (1), where a teacher and a board agree, a teacher employed by the board as a permanent teacher or as a probationary teacher with duties only as a continuing education teacher may be employed with respect to those duties under the teacher's contract as a permanent teacher or as a probationary teacher, as the case requires.

Permanent or
probationary
teacher as
continuing
education
teacher only

6.—(1) Section 231 of the said Act is amended by adding thereto the following subsection:

(1a) In subsection (1), a reference to school days in respect of a continuing education teacher shall be deemed to be a reference to the days upon which the class taught by the teacher is required to be taught and a reference to a school year is deemed to be a reference to the number of days during which the program of which the class is a part is scheduled by the board.

School days
and school
year

(2) Subsection 231 (7) of the said Act is amended by,

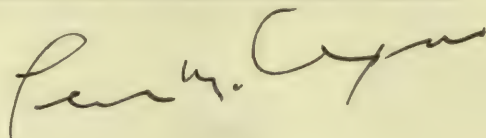
- (a) inserting after "section 230" in the sixth line "or no contract has been entered into under section 230a"; and**
- (b) inserting after "writing" in the eighth line "or a contract".**

7. This Act comes into force on the 1st day of May, 1989.

Commence-
ment

8. The short title of this Act is the *Education Amendment Act, 1989*.

Short title



Bill 77

*(Chapter 20
Statutes of Ontario, 1988)*

An Act to amend the Municipal Elections Act and the Assessment Act

The Hon. J. Eakins
Minister of Municipal Affairs



**CLERK
LEGISLATIVE ASSEMBLY**

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	April 7th, 1988
<i>3rd Reading</i>	April 11th, 1988
<i>Royal Assent</i>	April 11th, 1988

STATE

OF

LEGISLATIVE ASSEMBLY

LEGISLATIVE ASSEMBLY

LEGISLATIVE ASSEMBLY
CLERK

LEGISLATIVE ASSEMBLY

Bill 77

1987

**An Act to amend the
Municipal Elections Act and the Assessment Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART 1

MUNICIPAL ELECTIONS ACT

1.—(1) Paragraph 14 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

14. “enumeration” means the latest enumeration under the *Assessment Act*;

R.S.O. 1980,
c. 31

- 14a. “enumeration list” means the most recent list of electors prepared by the assessment commissioner under section 19.

(2) Paragraph 29 of section 1 of the said Act is repealed and the following substituted therefor:

29. “preliminary list” means an enumeration list of electors which has been corrected under section 23 and printed or reproduced under clause 24 (a).

2.—(1) Section 12 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3, is further amended by striking out “Wednesday in October that precedes polling day by nineteen” in the sixth line and inserting in lieu thereof “Monday in October that precedes polling day by twenty-eight”.

(2) The said section 12 is further amended by adding thereto the following subsection:

Deeming
provision

(2) A person whose name is on the preliminary list is deemed to be entitled to be an elector unless there is evidence to the contrary.

3.—(1) Section 13 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4, is further amended by striking out “Wednesday in October that precedes polling day by nineteen” in the sixth and seventh lines and inserting in lieu thereof “Monday in October that precedes polling day by twenty-eight”.

(2) The said section 13 is further amended by adding thereto the following subsection:

Deeming
provision

(2) A person whose name appears on the preliminary list is deemed to be entitled to be an elector unless there is evidence to the contrary.

4. Section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 7, section 1, is amended by inserting after “clerk” in the first line “on or before the date prescribed by the Minister of Revenue under the *Assessment Act*”.

5. The heading immediately preceding section 19 of the said Act is amended by striking out “Preliminary” and inserting in lieu thereof “Enumeration”.

6. Section 19 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Enumeration
list

19. An assessment commissioner shall, on or before the 31st day of July in an election year, from the latest enumeration and from data received from other sources, compile for each polling subdivision in each municipality and locality in the assessment region an enumeration list containing the name and address of each person who meets the requirements for an elector under subsection 12 (1) or subsection 13 (1) and such list shall signify opposite the name of an elector,

.

7.—(1) Subsection 20 (1) of the said Act is amended by striking out “preliminary” in the third line and inserting in lieu thereof “enumeration”.

(2) Subsection 20 (2) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

8.—(1) Subsection 21 (1) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

(2) Subsection 21 (2) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

9. Section 22 of the said Act is repealed and the following substituted therefor:

22.—(1) The assessment commissioner shall deliver the enumeration list to the clerk and, in respect of a locality, to the secretary of the school board on or before the 31st day of July in an election year.

Delivery of
enumeration
list

(2) At the written request of the clerk, the assessment commissioner may deliver the enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

Idem

10. Section 23 of the said Act is amended by adding thereto the following subsections:

(2) The clerk or secretary, after making the corrections under subsection (1), shall establish the places where and fix the times when the list will be revised and notify the assessment commissioner of such places and times on or before the date prescribed by the Minister of Revenue under the *Assessment Act*.

Revision of
list

R.S.O. 1980,
c. 31

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list, a notice in the form prescribed by the Minister of Revenue under the *Assessment Act* stating the electoral status of such person and the places and times for the revision of the preliminary list.

Mailing of
notice of
electoral
status

(4) If there is more than one elector at any address, only one notice is required to be sent to that address.

One mailing
per address

11. Clause 24 (b) of the said Act is repealed.

12. Subsections 25 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) On the Tuesday following the first Monday in September, copies of the preliminary list under subsection (1) shall be posted, notice given under section 24 and the revision of the list commenced.

Time for
posting, etc.

Last day for
filing
applications
for revision

(3) The last day for filing applications for revision of the preliminary list shall be the day immediately preceding the twenty-eighth day before polling day and the applications may be filed with the clerk during normal office hours.

13. Section 30 of the said Act is repealed and the following substituted therefor:

Statement of
changes

30.—(1) Upon the determination of all applications for revision of the preliminary list filed on or before the last day for filing applications, the clerk shall compile a statement of changes to the list including deletions and additions.

Idem

(2) The statement shall set out the full name and address of each person who is the subject of the addition, change or deletion.

Distribution
of statement

(3) The clerk shall, on or before the twenty-eighth day before polling day, send a certified copy of the statement to each person specified in subsection 25 (5) and shall furnish two certified copies of the statement to every candidate for office.

14. Subsection 35 (1) of the said Act is amended by striking out “twenty-first” in the second line and inserting in lieu thereof “twenty-eighth”.

15. Section 89 of the said Act is amended by adding thereto the following subsection:

Clerk to
forward
certain
documents
R.S.O. 1980,
c. 31

(3) After polling day, within the time prescribed by the Minister of Revenue under the *Assessment Act*, the clerk shall send to the assessment commissioner the certificates filed under subsection 33 (3) and the declarations taken under subsection 56 (1).

16. Subsections 92 (4) and (5) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 24, are repealed and the following substituted therefor:

Preliminary
list of
electors

(4) The preliminary list to be used for a new election shall be prepared as follows:

1. The clerk shall notify the assessment commissioner by registered mail of the requirement for a new election.
2. The assessment commissioner shall deliver to the clerk the enumeration list dated as of the date of the mailing of the notice.

3. Upon receipt of the enumeration list, the clerk, after making corrections under section 23, shall cause the list to be printed or reproduced, whereupon the list shall be the preliminary list.

(5) The preliminary list shall be posted in accordance with subsections 25 (1) and (2). Posting of list

(5a) The preliminary list is subject to revision for fifteen days before nomination day and sections 25 to 30 apply to the revision with necessary modifications. Revision of preliminary list

(5b) The requirements for the qualification of electors are the same as those set out in subsection 12 (1) or 13 (1) but electors may meet the requirements at any time during the fifteen days before nomination day. Qualifications

(5c) If a by-law or question is to be submitted to the electors at an election, other than a regular election, in compliance with an order of the Ontario Municipal Board given under subsection 132 (4) of the *Municipal Act*, unless the Board otherwise directs, Procedures

R.S.O. 1980,
c. 302

- (a) the clerk of the municipality shall set a date for polling day which shall be within sixty days of the effective date of the Board's order;
- (b) the clerk shall prepare, correct, print or reproduce and post the preliminary list in accordance with subsections (4) and (5);
- (c) the preliminary list shall be subject to revision for a period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days thereafter; and
- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing thirty-four days after the effective date of the Board's order and ending on polling day.

PART II

ASSESSMENT ACT

17. Clause 2 (1a) (e) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 28, section 1, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 308

- (e) prescribing anything the Minister is permitted or required by this Act or by the *Municipal Elections Act* to prescribe.

18. Subsection 9 (2) of the said Act is amended by striking out "census" in the twelfth line and inserting in lieu thereof "enumeration".

19. Subsection 10 (3) of the said Act is amended by striking out "census" in the fifth line and inserting in lieu thereof "enumeration".

20. Subsection 13 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 2, is amended by striking out "list prepared and revised by him" in the fifth line and inserting in lieu thereof "applications for the direction of school taxes received and approved by the assessment commissioner".

21.—(1) Subsections 14 (1) and (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed and the following substituted therefor:

Enumeration

R.S.O. 1980,
c. 308

(1) The assessment commissioner shall, commencing on the 1st day of May and ending on the 30th day of June in each election year as defined in the *Municipal Elections Act* and in any other year in which the Minister considers it necessary, cause an enumeration to be taken of the inhabitants of each municipality and locality in the assessment region in the manner prescribed by the Minister and including such information as may be prescribed by the Minister.

Other
enumeration

(2) The assessment commissioner shall, at a time to be prescribed by the Minister, in each year in which an enumeration is not taken under subsection (1), cause an enumeration to be taken of the occupants of any domestic establishment that is,

- (a) used or intended to be used as a residence by the tenant or lessee;
- (b) separately assessed under this Act; and
- (c) contained in a building having not less than seven such domestic establishments,

and the enumeration shall include the information prescribed under subsection (1).

(2) Subsection 14 (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by

striking out "census" in the second line and in the third line and inserting in lieu thereof in each instance "enumeration".

(3) Subsection 14 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is repealed and the following substituted therefor:

(4) The enumeration taken under this section shall be the enumeration referred to in the *Municipal Elections Act*. Enumeration for R.S.O. 1980, c. 308 purposes

(4) Section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by adding thereto the following subsections:

(5) The enumeration under this section shall be taken by, How enumeration to be taken

(a) delivering or mailing a municipal enumeration form as prescribed by the Minister to the last known address of each inhabitant;

(b) canvassing the premises of those inhabitants who have not completed and returned the notice delivered or mailed under clause (a) on or before the 15th day of May or such other day as the Minister may prescribe; and

(c) such other means or in such other manner as the Minister may prescribe.

(6) The assessment commissioner shall update the information received on the last enumeration under subsection (1) or (2) with such further information as may come to the attention of the assessment commissioner. Update of information

(7) The assessment commissioner may cause to be delivered or mailed to the addresss of any person who is or may be assessed in respect of land, whether resident in the municipality or not, the form referred to in clause (5) (a). Delivery of notice

22.—(1) Subsection 15 (1) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by,

(a) striking out "to the clerk of the municipality and" in the fifth line; and

(b) striking out "second Tuesday of October in each year" at the end thereof and inserting in lieu thereof "30th day of September in each year".

(2) Subsections 15 (2) to (6) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed and the following substituted therefor:

Preparation
of list

(2) Subject to subsection (3), the list referred to in subsection (1) shall be prepared on the basis of information contained in the enumeration, including updates thereto under subsection 14 (6), that has been completed by the assessment commissioner on or before the 30th day of September in that year.

Application
respecting
assessment
roll

(3) Any person may apply to the assessment commissioner to have that person's name included or altered in the assessment roll as a separate school supporter, if the person is a Roman Catholic, or a public school supporter and the assessment commissioner may make the addition or alteration.

Format of
list

(4) At the request of the secretary of the school board, the assessment commissioner may deliver the list referred to in subsection (1) in a format that will facilitate the use of mechanical or electronic means in the printing, reproduction or other use of the list.

Regulations

(5) The Minister may make regulations prescribing the forms and procedures to be used by a person applying to the assessment commissioner under subsection (3).

(3) Subsection 15 (7) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by striking out "subsection (6)" in the third line and inserting in lieu thereof "subsection (3)".

(4) Subsection 15 (8) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is repealed and the following substituted therefor:

Delivery of
application
by
assessment
commissioner

(8) If the assessment commissioner approves an application under subsection (3), the assessment commissioner shall deliver a copy of the approved application to the secretary of each school board in the municipality or locality in which the applicant is entitled to direct taxes for school support.

(5) Subsections 15 (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed.

23. This Act comes into force on the day it receives Royal Assent. Commence-
ment

24. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1988.* Short title

For us. Love

(Chapter 61
Statutes of Ontario, 1988)

An Act respecting the Sale of Farm Implements

The Hon. J. Riddell
Minister of Agriculture and Food

Paul H. Terhove

CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	November 15th, 1988
<i>3rd Reading</i>	December 7th, 1988
<i>Royal Assent</i>	December 15th, 1988

Bill 78

1987

An Act respecting the Sale of Farm Implements

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"Board" means the Ontario Farm Implements Board established under section 4;

“chairperson” means the chairperson designated under subsection 4 (3);

“dealer” means a person who, in the ordinary course of business, offers farm implements for sale at retail;

“distributor” means a person, including a manufacturer, who, in the ordinary course of business, sells, consigns or delivers farm implements or parts to a dealer;

“effective date” means the date determined under section 11;

“farm implement” means any equipment or machinery designed and used for agricultural or horticultural use and includes attachments;

“Minister” means the Minister of Agriculture and Food;

“prescribed” means prescribed by the regulations made under this Act;

“purchaser” means a person, an association of individuals or a partnership who purchases a farm implement;

“sale agreement” means an agreement between a purchaser, other than a distributor, and a dealer for the sale of a new or used farm implement;

“trade-in” means a farm implement or other property that is purchased by the dealer under a trade-in arrangement;

“trade-in allowance” means the amount shown in a sale agreement as the amount accepted by the dealer as the value of a trade-in under a trade-in arrangement;

“trade-in arrangement” means an arrangement, whether contained in a sale agreement or made by a separate agreement in conjunction with a sale agreement, whereby the purchaser agrees to sell the purchaser’s own farm implement or other property to the dealer and the farm implement or other property is accepted as the whole or part of the consideration under the sale agreement;

“vice-chairperson” means the vice-chairperson designated under subsection 4 (3).

Application

2.—(1) This Act does not apply to the sale of a farm implement,

- (a) by a person in the ordinary course of farming operations;
- (b) by an executor or administrator; or
- (c) by a public official acting under judicial process.

(2) This Act does not apply to the sale of a farm implement with a manufacturer's suggested list price that is less than the prescribed amount. Idem

3.—(1) A dealer shall not sell or offer for sale a new farm implement unless it was obtained by the dealer from a distributor or another dealer registered under this Act. Sales of farm implements

(2) Subsection (1) does not apply with respect to a new farm implement that is in the dealer's possession before this Act comes into force. Transition

(3) A distributor shall not sell a new farm implement to any person except a dealer or another distributor registered under this Act. Sales by distributor

(4) An agreement between a distributor and a dealer respecting the purchase and sale of a farm implement shall be in writing and shall contain such information as may be prescribed. Agreement in writing

BOARD AND INSPECTORS

4.—(1) The Ontario Farm Implements Board is hereby established and shall consist of not less than seven members appointed by the Minister. Ontario Farm Implements Board established

(2) The composition of the Board shall be as prescribed. Composition

(3) The Minister may designate one of the members of the Board as chairperson and one of the members as vice-chairperson. Chairperson, vice-chairperson

(4) The chairperson of the Board shall have general supervision and direction over the conduct of the affairs of the Board and, in the absence of the chairperson or if he or she is unable to act, the vice-chairperson shall have all the powers of the chairperson. Chairperson to have supervision

(5) The members of the Board may be appointed to hold office for a term not exceeding three years and may be reappointed for a further term or terms, but no member shall hold Term of office

office for more than a total of six years, whether the member's appointments are for consecutive terms or not.

Remuneration
and expenses

(6) The members of the Board who are not public servants of Ontario shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Board
proceedings

(7) The Board may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board give written notice, in the form and manner that the Board specifies, to the persons that the Board specifies.

Powers and
duties of
Board

5.—(1) The Board may exercise the powers and shall perform the duties that are conferred or imposed upon it by or under this Act.

Incidental
powers

(2) Without limiting the generality of subsection (1), the Board has power,

- (a) to require the production of documents, records, reports or things that the Board considers necessary to permit it to investigate and consider any matter within its jurisdiction;
- (b) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (c) on the request of a purchaser, dealer or distributor, to inquire into and resolve a dispute with respect to any matter arising from the application of this Act or the regulations;
- (d) to investigate claims regarding charges by dealers for repairs to farm implements; and
- (e) to make such inquiries and orders as are necessary to ensure that there is compliance with its decisions.

Mediator

(3) Where a request is made to the Board under clause (2) (c) or (d), the Board may appoint a mediator to resolve the dispute.

Hearing

(4) If the mediator is unable to resolve the dispute, any of the parties to the mediation may apply to the Board for a hearing.

- (5) The Board shall decide the issue that is before it for a hearing and shall serve notice of the decision, together with written reasons, on the parties to the hearing. Decision
- (6) An appeal from a decision of the Board on a question of law may be made to the Divisional Court. Appeal
- (7) Subsections 8 (2) to (6), both inclusive, apply with necessary modifications to an appeal under subsection (6). Application of s. 8 (2-6)
- (8) The Board is responsible for ensuring compliance with, Farm implement standards and safety
- (a) the prescribed safety standards for farm implement performance; and
- (b) the prescribed requirements for dealers respecting safety information and instruction to be given to purchasers on the sale of new farm implements.
- (9) The Board may conduct research related to farm implement design, construction, performance and safety. Research
- (10) The Board may develop and co-ordinate or approve educational programs respecting farm implement safety and may promote participation in such programs. Education
- (11) The Board may work with manufacturers to encourage standardization of the design and operation of controls of farm implements manufactured for sale in Ontario. Standardization
- (12) Part I of the *Statutory Powers Procedure Act* applies to proceedings of the Board. Application of R.S.O. 1980, c. 484

REGISTRATION OF DEALERS AND DISTRIBUTORS

- 6.**—(1) No person shall carry on the business of a dealer or distributor unless the person is registered under this Act. Registration required
- (2) An applicant for registration or renewal of registration as a dealer or distributor is entitled to registration or renewal on submitting a completed application, together with the prescribed fee. Entitlement to registration
- (3) A registration is subject to such conditions to give effect to the purposes of this Act as are prescribed by the regulations. Conditions of registration
- 7.** Subject to section 8, the Board may refuse to grant or renew or may suspend or revoke a registration if the applicant Refusal to register, revocation

is in breach of a condition of the registration or a provision of this Act or the regulations, or would be if registered.

Notice of
decision to
refuse or
revoke

8.—(1) If the Board decides to refuse to grant or renew a registration or decides to suspend or revoke a registration, it shall serve notice of its decision, together with written reasons, on the applicant or registrant.

Appeal to
Divisional
Court

(2) A notice under subsection (1) shall inform the applicant or registrant that he or she may appeal from the decision to the Divisional Court in accordance with the rules of court within fifteen days from the day on which the decision was served.

Certified
copies of
papers

(3) On the request of any person desiring to appeal, the chairperson shall furnish such person with a certified copy of all proceedings, evidence, reports and papers received in evidence by the Board in dealing with and disposing of the application.

Procedure
and record

(4) An appeal under this section shall be by motion, notice of which shall be served on the chairperson, and the record shall consist of a copy, certified by the chairperson, of the proceedings of the Board, the evidence taken, and the findings and decisions of the Board in the matter.

Orders

(5) Upon the hearing of an appeal under this section, the Divisional Court may make such order as it considers proper or may refer the matter back to the Board with such directions as the court considers proper.

Costs

(6) The Divisional Court may make such orders as to the costs of the appeal as the court considers proper.

Voluntary
cancellation

(7) Despite subsection (1), the Board may cancel a registration on the request in writing of the registrant.

Continuation
of registration
pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of the registration, a registrant has applied for renewal of the registration and paid the prescribed fee, the registration continues in force,

(a) until the renewal is granted; or

(b) where the registrant is served with notice of the Board's decision to refuse to grant the renewal, until the time for bringing an appeal has expired and until the matter is finally disposed of.

9. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed.

Further
applications

SALE AGREEMENT

- 10.—**(1) A sale agreement shall be in writing and shall,
- Form of
agreement
- (a) subject to subsection (2), contain a description of the farm implement, including its serial and model number;
 - (b) show separately the purchase price,
 - (i) for each farm implement to which it relates, and
 - (ii) for each attachment to the farm implement if the attachment and the farm implement are not supplied by the same distributor;
 - (c) include a description of and the allowance for any trade-in;
 - (d) state the date of delivery to the purchaser;
 - (e) contain the name and address of the purchaser, dealer and distributor;
 - (f) in the case of a new farm implement, include a statement of the nature and duration of,
 - (i) the warranties provided under this Act, and
 - (ii) any additional or extended warranties;
 - (g) in the case of a used farm implement,
 - (i) include a statement of the nature and duration of all warranties given in connection with the farm implement and any exclusions from the warranties, or
 - (ii) if no warranty is given, include a statement to that effect; and
 - (h) contain such other information as may be prescribed.

Where
information
not available

(2) If the serial or model number of the farm implement is not available when the sale agreement is entered into, the dealer shall provide the information to the purchaser on or before delivery of the farm implement to the purchaser.

Warranty
separate from
sale
agreement

(3) Despite subclause (1) (f) (ii), an additional or extended warranty may be set out elsewhere than in the sale agreement if it identifies the farm implement to which it applies and is delivered to the purchaser on or before delivery of the farm implement.

Obligation of
dealer to
repair

(4) It is a condition of every sale agreement that the dealer shall, on receiving the distributor's authorization, perform any work on the farm implement or a repair part for the farm implement that is required by a warranty that the distributor is liable to honour under this Act.

Effective
date of sale
agreement

11.—(1) A sale agreement is not effective until the earlier of the date on which,

- (a) the agreement is signed by the purchaser and the dealer or the dealer's authorized agent and a copy of the agreement is delivered to the purchaser; or
- (b) the purchaser takes delivery of the farm implement under the agreement.

Copies of
sale
agreement

(2) A dealer shall keep a copy of a sale agreement for at least two years from its effective date.

WARRANTIES

Warranty as
to power

12.—(1) A sale agreement shall state,

- (a) in the case of a new tractor, its engine horsepower or power takeoff power; and
- (b) in the case of any other new farm implement that is or has an engine or motor, its engine horsepower,

as shown in the manufacturer's specifications.

Idem

(2) A farm implement is warranted to develop the power stated in the sale agreement if it is properly operated and maintained and used under reasonable operating conditions.

Implied
warranty as
to quality

13. On the sale of a new farm implement there is an implied warranty that the farm implement,

- (a) is properly constructed as to material, design and workmanship; and
- (b) will perform to manufacturer's specifications the work for which it is intended if it is properly operated and maintained and used under reasonable operating conditions.

14.—(1) The warranties provided under sections 12 (power) and 13 (quality) take effect on the date of delivery of the farm implement to the purchaser and continue for the following periods:

Duration of warranties under ss. 12 and 13

- 1. In the case of tractors, the lesser of one year or 1,000 hours of operation.
- 2. In the case of combines, the lesser of one year or 500 hours of operation.
- 3. In all other cases, one year.

(2) Except in the case of a *bona fide* exchange or repair of an hour meter, no person shall alter, adjust or permit any alteration or adjustment to the hour meter on a farm implement in the person's possession or control so as to cause the total number of hours indicated on the hour meter to be different from the total number of hours that the farm implement has been operated.

Alteration of hour meter prohibited

(3) A person who exchanges or repairs the hour meter on a farm implement, or another part of the farm implement that is directly related to the hour meter, shall make a record of the reading that was on the hour meter before the exchange or repair.

Exchange or repair of hour meter

15. On the sale of a new farm implement there is an implied warranty that a sufficient supply of repair parts for the farm implement will be available to the purchaser for a period of ten years from the effective date.

Implied warranty as to supply of repair parts

16.—(1) On the sale of a new repair part there is an implied warranty that the repair part will be free from defects in material or workmanship for a period of ninety days from the date of purchase or, if purchased out of the season of use, ninety days from the date it is first used by the purchaser in the next season of use.

Implied warranty as to quality of repair parts

(2) The warranty under subsection (1) applies only if the part is purchased from an authorized dealer and supplied by

Idem

the same distributor who supplied the farm implement for which the part is intended.

Additional
warranties

17.—(1) A distributor or dealer may give a warranty in respect of a farm implement or a repair part that affords greater protection or that has a longer duration than the warranties under this Act.

No
contracting
out

(2) The warranties under this Act apply to a sale agreement despite an agreement or waiver to the contrary, and any such agreement or waiver is severable from the sale agreement.

Liability for
warranties

18.—(1) The distributor of a new farm implement is liable to the purchaser to honour the warranties under sections 12 (power) and 13 (quality).

Idem

(2) The dealer and distributor of a new farm implement are jointly and severally liable to the purchaser to honour the warranty under section 15 (parts supply).

Idem

(3) The distributor who supplies a new repair part is liable to the purchaser to honour the warranty under section 16 (quality of parts).

Idem

(4) If a farm implement is damaged as a result of a breach of the warranty under section 16 (quality of parts), the distributor of the repair part is liable for the cost of repairing the farm implement.

Repairs
under
warranty

(5) A dealer or distributor making repairs to a farm implement under a warranty provided by this Act shall use new repair parts that are of the standard and size specified by the manufacturer for that farm implement, unless the purchaser and the distributor authorize in writing the use of different parts.

Recall of
defective
farm
implements

(6) If a distributor is or should be aware that a significant percentage of farm implements sold by the distributor exhibit a common defect, the distributor shall notify purchasers of the defect and of the distributor's obligation to repair the defective farm implements.

Repair

(7) The distributor shall repair the defective farm implements at the distributor's expense, including any transportation costs.

REPAIR PARTS

Definition

19.—(1) In this section, "emergency repair parts" means parts required to repair a farm implement where the farm

implement breaks down during the season of use within ten years of the effective date and cannot be satisfactorily operated.

(2) Where a purchaser notifies in writing any dealer of the distributor of a farm implement that the farm implement requires emergency repair parts, the dealer shall forthwith order the emergency repair parts from the distributor.

Obligation of dealer

(3) Where a distributor receives an order under subsection (2), the distributor shall ensure that the parts are available at the dealer's place of business within three working days from the day the order was placed, unless delivery of the parts cannot be made within that time because of conditions beyond the distributor's control.

Obligation of distributor

(4) No price for emergency repair parts shall exceed the manufacturer's suggested list price, except that the dealer or distributor may add to the price,

Price of emergency repair parts

(a) a service charge not exceeding the prescribed amount for each order for emergency repair parts; and

(b) the amount of any costs reasonably incurred in supplying the emergency repair part to the purchaser.

(5) If, on receiving notice under subsection (2), the dealer fails to properly place an order for emergency repair parts, the dealer shall be liable to supply the purchaser with a satisfactory substitute farm implement, within three working days from the day notice was given, at one-half of the prescribed normal rental rate for that implement.

Provision of substitute

(6) If the dealer is unable to provide a satisfactory substitute farm implement, the dealer shall be liable to reimburse the purchaser one-half of the prescribed normal rental rate for a substitute farm implement rented from a third party.

Idem

(7) If, within the time specified under subsection (3), the distributor fails to provide the emergency repair parts, the distributor shall be liable to pay one-half of the prescribed normal rental rate for a substitute farm implement rented by the purchaser from the dealer or a third party.

Distributor's liability

(8) No person shall rent a farm implement to a purchaser in the circumstances mentioned in subsection (5) or (6) for more than the prescribed normal rental rate for that implement.

Offence

Return of
defective
repair part

20. Where a purchaser receives a replacement part under a warranty for a defective repair part of a farm implement, the purchaser shall return the defective repair part to the dealer who supplied the replacement part within ten days after it is replaced.

FAILURE TO PERFORM

Definitions

21.—(1) For the purposes of section 22,

“defective farm implement” means a farm implement in respect of which notice has been given under section 22;

“fair market value” means fair market value as of the date the sale agreement was made.

Determi-
nation of fair
market value

(2) For the purpose of determining the fair market value of a trade-in under subsection 22 (8) or (9), regard may be had to any publication of farm implement prices in general use in the farm implement industry in Canada.

Failure to
perform

22.—(1) If, within the twelve months following its delivery to the purchaser, a new farm implement that is properly operated and maintained and used under reasonable operating conditions fails to perform to the manufacturer's specifications during its first ten days or first 100 hours of actual use, whichever occurs first, the purchaser may give notice of the farm implement's failure to perform.

Notice

(2) The notice referred to in subsection (1) shall be given in writing as soon as possible after the failure occurs, and in any event within ten days of the failure,

(a) to the selling dealer; or

(b) if the selling dealer is no longer in business, to the Board,

and the dealer or the Board shall notify the distributor forthwith of the notice and its contents.

Repair

(3) The dealer or distributor shall endeavour to make the defective farm implement perform to the manufacturer's specifications within four working days after the dealer or distributor receives notice of the failure, or as soon as possible thereafter when reasonable operating conditions exist for the farm implement.

Substitute

(4) If the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications,

the dealer or distributor shall forthwith provide the purchaser with a satisfactory substitute for the purchaser's use until the defective farm implement is made to perform to the manufacturer's specifications or is replaced or until the sale agreement is terminated under clause (5) (b).

(5) If, within fourteen working days after providing the substitute farm implement to the purchaser, the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications, Replacement
or
termination

(a) the distributor shall replace the defective farm implement with a farm implement that is satisfactory to the purchaser; or

(b) the dealer shall terminate the sale agreement in so far as it relates to the defective farm implement.

(6) Subject to subsections (7), (8) and (9), when a sale agreement is terminated under clause (5) (b), Refund and
return of
trade-in

(a) the distributor shall refund to the purchaser through the dealer the amount remitted to the distributor for the defective farm implement; and

(b) the dealer shall refund to the purchaser the balance of the amount paid for the defective farm implement and shall return any trade-in made in connection with the sale.

(7) The dealer or distributor may deduct from the amount owing to the purchaser, Deduction
for repairs
to trade-in

(a) the reasonable costs of repairing or reconditioning the trade-in that were incurred before the termination of the sale agreement; and

(b) a reasonable amount of compensation for the actual use of the farm implement by the purchaser.

(8) If the dealer does not return the trade-in, the dealer shall pay to the purchaser an amount equal to the fair market value of the trade-in. Where
trade-in
not returned

(9) If the defective farm implement was purchased under a sale agreement that relates to more than one farm implement and includes a trade-in arrangement, the dealer or distributor may, unless the purchaser agrees otherwise, Sale
agreement
for more
than one
farm
implement

- (a) keep the trade-in and pay to the purchaser an amount of money that bears the same proportion to the fair market value of the trade-in as the purchase price of the defective farm implement bears to the total purchase price of all the farm implements purchased under the agreement; or
- (b) return the trade-in and refund to the purchaser the part of the total purchase price that was paid in respect of the defective farm implement.

Obligations
re financing
agreement

(10) If the purchase of the defective farm implement is financed in whole or in part through a financing agreement with a third party and the sale agreement relating to it is terminated under clause (5) (b), the distributor shall be liable,

- (a) to satisfy the payment obligations under the financing agreement that relate to the defective farm implement, including any penalty for accelerated payment; and
- (b) to discharge any registrations against the farm implement or against the purchaser in connection with that farm implement under the *Bank Act* (Canada), the *Personal Property Security Act* and the *Corporation Securities Registration Act*.

1980-81,
c. 40 (Can.)
R.S.O. 1980,
cc. 375, 94

BUY-BACK PROVISIONS

Definitions

23.—(1) For the purposes of sections 24 to 30,

“agreement” means an agreement between a dealer and a distributor under which the dealer is required by the distributor to maintain an inventory of new farm implements and parts supplied by the distributor;

“current net price” means the price listed in the distributor’s price list or catalogue in effect at the time the agreement is terminated;

“invoice price” means the price actually paid by the dealer for the new farm implement and, in respect of a new farm implement that has been rented pursuant to a written rental program approved by the distributor, means the price actually paid by the dealer for the new farm implement less the amount of any rental payments submitted to the distributor;

“new farm implement” means a farm implement that is not a used farm implement and includes,

- (a) a farm implement that has been operated by or on behalf of a dealer pursuant to a written demonstration program sponsored by the distributor, and
- (b) a farm implement that has been rented pursuant to a written rental program approved by the distributor;

“new part” means a part or parts assembly that has not been used and has not been removed from a complete farm implement;

“used farm implement” means a farm implement that has been operated for a distance or for a period of time in excess of that required to deliver it to the dealer and to enable the dealer to service, prepare and operate it for the purposes of sale.

(2) Sections 24 to 30 apply to an agreement that is in effect on or after the day this Act comes into force. Application

(3) Subject to subsection (4), sections 24 to 30 apply to an agreement despite any agreement or waiver to the contrary. No contracting out

(4) A distributor and a dealer may agree in writing to repurchase terms that are more favourable to the dealer than the provisions of sections 24 to 30. Exception

24.—(1) Within ninety days after an agreement has expired or is terminated, a dealer may by written notice require the distributor to repurchase all or any new farm implements and new parts supplied by the distributor under the agreement. Notice to repurchase

(2) The notice to repurchase shall state whether the dealer intends to rely on, Election

(a) the provisions of this section and sections 25 to 30;
or

(b) the terms of an agreement with the distributor under subsection 23 (4).

(3) If the dealer fails to make the election under subsection (2), the dealer shall be deemed to have elected to rely on the provisions of this section and sections 25 to 30. Where no election made

25.—(1) The distributor shall pay a repurchase amount to the dealer equal to, Repurchase price

(a) 100 per cent of the invoice price for each new farm implement; and

(b) 85 per cent of the current net price for each new part,

plus transportation costs paid by the dealer for delivery of the new farm implement to the dealer's place of business.

Other
amounts
owing

(2) In addition to the amount payable under subsection (1), the distributor shall pay any other amount owing to the dealer by the distributor.

Time for
payment

26.—(1) The repurchase amount payable to the dealer by the distributor is due on the earlier of,

(a) the ninety-first day after the distributor receives the notice of repurchase; and

(b) the thirtieth day after the distributor takes possession of the new farm implements and parts that are the subject of the notice.

Interest

(2) Interest at the prescribed rate shall be payable on any part of the repurchase amount that is unpaid after the due date.

Extension of
time

(3) The dealer and distributor may agree to extend the time for payment.

Set-off

(4) A distributor may deduct from the repurchase amount any amount owing to the distributor by the dealer.

Deduction
for missing
part, etc.

(5) A distributor may deduct from the repurchase amount the current net price, including a reasonable installation charge, for the replacement of any part of a new farm implement that is missing or damaged.

Repurchase
not required

27. A distributor is not required to repurchase,

(a) a new part that is broken or damaged;

(b) a new parts assembly that is incomplete and cannot be completed at reasonable expense;

(c) a new part or parts assembly that has been removed from a farm implement and replaced at no cost to the dealer under a modification or warranty substitution program;

- (d) a new part that is a seal or hose made of rubber, a gasket made of cork or a composition of materials, a seal made of leather, a liquid chemical that has deteriorated and is of limited use, or paint;
- (e) a new part that is not clearly identified, or that is not resaleable as a new part without repackaging or reconditioning;
- (f) a new part that is not listed in the distributor's current parts record-keeping system;
- (g) a new farm implement that is an attachment that,
 - (i) is not identifiable by a whole goods' invoice,
 - (ii) is not resaleable as a new attachment without repackaging or reconditioning, or
 - (iii) does not fit a current new farm implement;
- (h) a new farm implement or new part that has not been adequately prepared for shipment by the dealer within the ninety day period or extension of that period referred to in subsection 28 (2);
- (i) a new farm implement that was shipped to the dealer more than thirty-six months before the distributor receives the notice of repurchase.

28.—(1) The dealer is responsible for the care of a new farm implement or new part until the earlier of,

Responsi-
bility for
care

- (a) the ninety-first day after the distributor receives the notice to repurchase; and
- (b) the day the distributor takes possession of the new farm implements and new parts,

and thereafter the distributor is responsible.

(2) Despite clause (1) (a), the dealer and distributor may agree to extend the time during which the dealer is responsible.

Extension of
time

(3) The dealer is responsible for preparing or packaging all new farm implements and all new parts so that they are acceptable by a carrier for shipment at the distributor's expense from the dealer's place of business.

Preparing
implements
and parts for
shipment

R.S.O. 1980,
c. 52 does
not apply

29. The *Bulk Sales Act* does not apply to a sale to a distributor under section 24.

Distributor
to furnish
information

30. A distributor shall provide to the Board, on request, copies of agreements in effect between the distributor and the dealer respecting the supply or return of new farm implements or new parts.

MISCELLANEOUS PROVISIONS

Alteration of
serial number

31.—(1) No person shall,

- (a) alter or remove the serial number on a farm implement; or
- (b) buy, sell or otherwise deal in a farm implement if the serial number has been altered or removed, unless authorized to do so by the Board.

Obligation of
dealer

(2) Subject to subsection 10 (2), no dealer shall sell or offer for sale a new farm implement unless the serial number is stamped on the implement or affixed thereto.

Idem

(3) No dealer shall sell or offer for sale a farm implement,

- (a) unless the farm implement complies with the prescribed safety standards; and
- (b) unless the dealer provides the purchaser with a statement that indicates compliance with the prescribed safety standards.

Service of
notice

32.—(1) A notice required to be given to a dealer or distributor may be served personally or sent by registered mail to the address of the dealer or distributor as shown in the records of the Board.

Deemed
receipt

(2) A notice that is sent by registered mail shall be deemed to have been received on the fifth day after it is mailed.

Rights, etc.,
preserved

33. The rights, duties and remedies provided by this Act are in addition to the rights, duties and remedies under any other Act and the common law.

Offence and
penalty

34.—(1) Every person and every officer or director of a corporation who contravenes a provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed on the corporation is \$25,000. Corporations

35. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations, Regulations

- (a) exempting a farm implement or a class of farm implements from any provision of this Act or the regulations;
- (b) prescribing, for the purposes of section 2, the amount that the manufacturer's suggested list price of a farm implement must equal or exceed;
- (c) prescribing information to be included in agreements referred to in subsection 3 (4);
- (d) prescribing forms and providing for their use;
- (e) prescribing the composition of the Board;
- (f) governing applications for registration or renewal of registration and prescribing conditions of registration;
- (g) requiring the payment of fees of an application for registration or renewal of registration and prescribing the amount of the fees;
- (h) prescribing information to be included in sale agreements;
- (i) requiring dealers and distributors to provide to the Board prescribed information respecting their business operations and prescribing the times at which the information is to be provided and the form in which it is to be provided;
- (j) regulating the provision of emergency parts for farm implements, including imposing duties on distributors and dealers;
- (k) prescribing normal rental rates for the purposes of section 19;
- (l) prescribing, for the purposes of subsection 19 (4), the maximum amount of the service charge payable in respect of an order for emergency repair parts;

- (m) fixing the rate of interest for the purposes of subsection 26 (2);
- (n) regulating or prohibiting the installation or use of any farm implement, part or device or any class thereof;
- (o) requiring that any farm implement or part bear the seal of approval of an organization designated by the regulations to test and approve the farm implement or part, and designating organizations for such purposes;
- (p) prescribing safety standards for farm implement performance;
- (q) prescribing standards for dealers respecting safety information and instruction to be given to purchasers on the sale of a farm implement;
- (r) adopting by reference, in whole or in part, with such changes as the Board considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted.

Commence-
ment

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

37. The short title of this Act is the *Farm Implements Act*, 1988.

Bill 79

*(Chapter 14
Statutes of Ontario, 1988)*

An Act to amend the Legislative Assembly Act

The Hon. S. Conway
Government House Leader and Minister of Mines

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

**CLERK
LEGISLATIVE ASSEMBLY**

Bill 79**1987****An Act to amend the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$39,229 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$13,171 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 2, is repealed and the following substituted therefor:

61. In addition to the indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

(a) to the Premier, at the rate of \$7,410 per annum;

(b) to the Leader of the Opposition, at the rate of \$4,941 per annum; and

(c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,470 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader of
a minority
party

(1) In addition to the indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$21,217 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$28,743 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$14,432.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and chairmen
of standing
committees,
indemnity

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,880 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$6,168 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,810 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,979 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,524 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,427 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,524 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,427 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$6,168 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,934 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 72, section 6, is further amended by striking out “\$68” as set out in the amendment of 1986 and inserting in lieu thereof “\$71” and by striking out “\$79” as set out in that amendment and inserting in lieu thereof “\$82”.

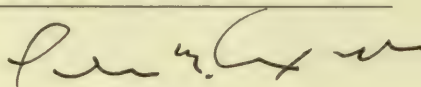
7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 7, is repealed and the following substituted therefor:

69. In addition to the indemnity as a member, an indemnity shall be paid, House
Leaders’
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,979 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$8,264 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1987. Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1988*. Short title



Bill 80

*(Chapter 15
Statutes of Ontario, 1988)*

An Act to amend the Executive Council Act

The Hon. S. Conway

Government House Leader and Minister of Mines

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK
LEGISLATIVE ASSEMBLY

Bill 80

1987

An Act to amend the Executive Council Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 73, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$28,743. Salaries

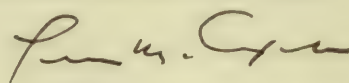
(2) The Premier and President of the Council shall receive, in addition, \$12,214 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$14,433. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,880. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1987. Commencement

3. The short title of this Act is the *Executive Council Amendment Act, 1988*. Short title



Bill 81

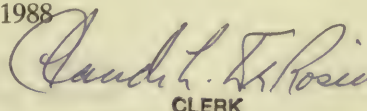
*(Chapter 16
Statutes of Ontario, 1988)*

An Act to amend the Election Finances Act, 1986

The Hon. S. Conway

Government House Leader and Minister of Mines

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



CLERK

LEGISLATIVE ASSEMBLY

Bill 81**1987****An Act to amend the Election Finances Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of the *Election Finances Act, 1986*, being chapter 33, is repealed.

2.—(1) Subsection 13 (2) of the said Act is amended by striking out “34 (3) or 45 (3)” wherever it appears and by inserting in lieu thereof, in each instance, “or 34 (3)”.

(2) Subsection 13 (6) of the said Act is amended by striking out “or subsection 45 (3)” in the second and third lines and in the fourth and fifth lines.

3. Clause 34 (4) (d) of the said Act is amended by striking out “43 and 45” in the second line and inserting in lieu thereof “and 43”.

4.—(1) Subsection 41 (4) of the said Act is amended by striking out “43 and 45” in the fifth line and inserting in lieu thereof “and 43”.

(2) Clause 41 (7) (a) of the said Act is amended by striking out “43 and 45” in the third line and inserting in lieu thereof “and 43”.

(3) Clauses 41 (7) (b) and (c) of the said Act are amended by striking out “sections 43 and 45” wherever it appears and inserting in lieu thereof, in each instance, “section 43”.

5. Section 45 of the said Act is repealed.

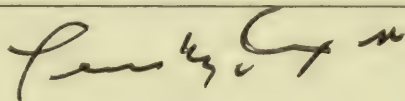
6. Subsection 48 (1) of the said Act is amended by striking out “43 or 45” in the third line and inserting in lieu thereof “or 43”.

**Commence-
ment**

7. This Act shall be deemed to have come into force on the 1st day of January, 1988.

Short title

8. The short title of this Act is the *Election Finances Amendment Act, 1988*.

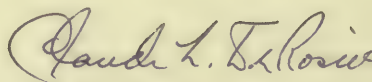


Bill 82

*(Chapter 32
Statutes of Ontario, 1988)*

An Act respecting Energy Efficiency

The Hon. R. Wong
Minister of Energy



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	June 1st, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988

Bill 82

1987

An Act respecting Energy Efficiency

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Deputy Minister” means the Deputy Minister of Energy;

“prescribed” means prescribed by the regulations;

“regulations” means regulations made under this Act.

2. This Act applies to the following appliances and products: Application

1. Central air conditioners.
2. Clothes dryers.
3. Clothes washers.
4. Dishwashers.
5. Freezers.
6. Furnaces.
7. Heat pumps.
8. Ovens.
9. Ranges.
10. Refrigerators.
11. Room air conditioners.
12. Pool heaters.
13. Water heaters.
14. Prescribed appliances and products.

3.—(1) No person shall offer for sale, sell or lease an appliance or product to which this Act applies unless,

Appliances
and products,
efficiency
standards

- (a) the appliance or product meets the prescribed efficiency standard with respect to the appliance or product; and

- (b) a prescribed label that sets out the efficiency standard of the appliance or product is affixed to the appliance or product.

Labels

(2) No person shall affix a prescribed label to an appliance or product to which this Act applies unless the appliance or product meets the prescribed efficiency standard with respect to the appliance or product.

**Application
of subs. (1)**

(3) Subsection (1) does not apply to,

- (a) an appliance or product that is manufactured on or before a prescribed date and that is sold or leased on or before a prescribed date; or
- (b) a person who is not in the business of offering for sale, selling or leasing appliances or products to which this Act applies.

Inspectors

4.—(1) The Deputy Minister may designate in writing any person as an inspector for the purposes of this Act.

Powers

(2) For the purposes of this Act and the regulations, an inspector designated under subsection (1),

- (a) may enter any place where an appliance or product to which this Act applies is manufactured, offered for sale, sold or leased at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of an inspection or test on an appliance or product to which this Act applies;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may inspect and test any appliance or product to which this Act applies to ensure that the appliance or product complies with the provisions of this Act and the regulations; and
- (e) may require any person to co-operate in and assist with an inspection or test.

**Entry of
dwelling**

(3) A person shall not exercise a power of entry conferred by this Act to enter the dwelling of a person who is not in the

business of manufacturing, offering for sale, selling or leasing appliances or products to which this Act applies.

(4) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section. Idem

(5) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of an inspection or test under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the person named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed. Warrant for search

(6) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an inspector may carry out an inspection or test under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the person named in the warrant. Warrant for entry

(7) A warrant issued under this section, Execution and expiry of warrant

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

(8) No person shall hinder, obstruct or interfere with or impede an inspector, Obstruction

- (a) who is exercising a power under subsection (2); or
- (b) who is executing a warrant.

(9) Subsection (8) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (5). Idem

(10) Where information is required to be furnished or a document is required to be provided or produced under this Act or the regulations, no person furnishing such information False information, etc.

or providing or producing such document shall furnish false information or provide or produce a false document.

Admissibility
of copies

(11) Copies of, or extracts from, documents and things removed from premises under this Act and certified by the person who made the copies as being true copies of, or extracts from, the originals are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Idem

(12) No document or thing or copy thereof or extract therefrom in the possession of an inspector shall be introduced in evidence in any proceeding under this Act unless the owner of the document or thing is first given notice of the intent to introduce it into evidence.

Penalty

5.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or, if the person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate contravenes any provision of this Act or the regulations, every director or officer of the body corporate who authorizes, permits or acquiesces in the contravention is a party to and guilty of an offence and on conviction is liable to the penalty provided for the offence whether or not the body corporate has been prosecuted or convicted.

Regulations

6.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing appliances and products to which this Act applies in addition to those appliances and products set out in section 2;
- (b) respecting any matter referred to as prescribed by the regulations;
- (c) regulating the installation, testing, maintenance and repair of appliances and products to which this Act applies;
- (d) designating persons or organizations to test appliances and products to which this Act applies to the prescribed standards;

- (e) providing for the placing of a prescribed label on appliances and products that conform to the prescribed standards;
- (f) prescribing the contents of labels that may be placed on appliances and products to which this Act applies;
- (g) prescribing fees to be paid to designated persons or organizations for the testing or labeling of appliances and products and prescribing by whom the fees shall be paid;
- (h) prescribing forms and providing for their use;
- (i) providing for information to be reported by persons who manufacture, offer for sale, sell or lease appliances or products to which this Act applies including the frequency, time and manner for reporting;
- (j) governing the keeping of information, records and documents by persons who manufacture, offer for sale, sell or lease appliances or products to which this Act applies;
- (k) exempting any person, appliance or product from any provision of this Act or the regulations.

(2) A regulation may be general or specific in its application. Idem

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and may require compliance with any code or standard adopted. Codes

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

8. The short title of this Act is the *Energy Efficiency Act*, Short title
1988.



Bill 83

*(Chapter 62
Statutes of Ontario, 1988)*

An Act respecting the Protection of Farm Practices

The Hon. J. Riddell

Minister of Agriculture and Food



CLERK

LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	November 16th, 1988
<i>3rd Reading</i>	December 15th, 1988
<i>Royal Assent</i>	December 15th, 1988

Bill 83**1987****An Act respecting the Protection of Farm Practices**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,**Definitions**

“agricultural operation” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward, and includes,

- (a) the cultivation of land,
- (b) the raising of live stock, including poultry,
- (c) the raising of fur-bearing animals and game birds,
- (d) the production of agricultural crops, including mushrooms, greenhouse crops and nursery stock,
- (e) the production of eggs and milk,
- (f) the operation of agricultural machinery and equipment, including irrigation pumps,
- (g) the process necessary to prepare a farm product for distribution from the farm gate,
- (h) the application of fertilizers, conditioners and pesticides, including ground and aerial spraying, and
- (i) the storage, disposal or use of organic wastes for farm purposes;

“Board” means the Farm Practices Protection Board established under section 3;

“land use control law” means any Act and any regulation, plan or by-law made under the authority of an Act that restricts or prescribes the use to which land or premises

may be put or the nature of business or activities that may be carried on on any land or premises;

“Minister” means the Minister of Agriculture and Food;

“normal farm practice” means a practice that is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances and includes the use of innovative technology used with advanced management practices;

“person” includes an unincorporated association.

Protection
from
nuisance
claims

2.—(1) A person who carries on an agricultural operation and who, in respect of that agricultural operation, does not violate,

(a) any land use control law;

R.S.O. 1980,
c. 141

(b) the *Environmental Protection Act*;

R.S.O. 1980,
c. 376

(c) the *Pesticides Act*;

1983, c. 10

(d) the *Health Protection and Promotion Act, 1983*; or

R.S.O. 1980,
c. 361

(e) the *Ontario Water Resources Act*,

is not liable in nuisance to any person for any odour, noise or dust resulting from the agricultural operation as a result of a normal farm practice and shall not be prevented by injunction or other order of a court from carrying on the agricultural operation because it causes or creates an odour, a noise or dust.

Where
subsection
(1) does not
apply

(2) Subsection (1) does not apply to an owner or operator of an agricultural operation that fails to obey an order of the Board made under clause 5 (3) (b).

Farm
Practices
Protection
Board

3.—(1) The Farm Practices Protection Board is hereby established and shall consist of not less than five members appointed by the Minister.

Chairperson
of Board

(2) The Minister may designate one of the members of the Board as chairperson and one or more of the remaining members as vice-chairperson.

Duties of
chairperson

(3) The chairperson of the Board is responsible for the general supervision and direction over the conduct of the affairs of the Board and, in his or her absence or if he or she is

unable to act, the vice-chairperson shall have all the powers of the chairperson.

(4) The members of the Board may be appointed to hold office for a term not exceeding three years and may be reappointed, but no member shall hold office for more than six years, whether the member's appointments are for consecutive terms or not. Term

(5) The members of the Board who are not public servants of Ontario shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines. Remuneration

(6) The Board may, subject to the *Statutory Powers Procedure Act*, make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board shall give written notice, in such form and manner as the Board specifies, to the persons that the Board specifies. Procedures
R.S.O. 1980,
c. 484

(7) The chairperson or vice-chairperson and two other members constitute a quorum and are sufficient for the exercise of all of the jurisdiction and powers of the Board. Quorum

4.—(1) The Board may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act including the power, Duties and
powers of
Board

(a) on the request of an aggrieved person, to inquire into and resolve a dispute respecting an agricultural operation including the determination as to what constitutes a normal farm practice; and

(b) to make such inquiries and orders as are necessary to ensure that there is compliance with its decisions.

(2) The Board shall provide the Minister with any information requested by the Minister as to the policies, procedures and operations of the Board. Information
to be made
available to
Minister

(3) The Minister may order the Board to study any matter related to farm practices and the Board shall conduct the study and report its findings and recommendations to the Minister. Board to
conduct
studies

5.—(1) Where a person is aggrieved by any odour, noise or dust resulting from an agricultural operation, the person may apply in writing to the Board for a determination as to Complaints
re: farm
practices

whether the odour, noise or dust results from a normal farm practice.

Form of
application

(2) Every application under subsection (1) shall contain a statement of the nature of the complaint, the name and address of the person making the application and the name and address of the agricultural operation and shall be in a form acceptable to the Board.

Hearing and
order

(3) The Board shall hold a hearing and shall,

- (a) dismiss the complaint if the Board is of the opinion that the odour, noise or dust results from a normal farm practice; or
- (b) order the owner or operator of the agricultural operation to cease the practice causing the odour, noise or dust if it is not a normal farm practice or to modify the practice in the manner set out in the order to be consistent with normal farm practice.

Refusal to
hear
application

(4) The Board may refuse to hear an application or, after a hearing has commenced, refuse to continue the hearing or to make a decision if in its opinion,

- (a) the subject-matter of the application is trivial;
- (b) the application is frivolous or vexatious or is not made in good faith; or
- (c) the applicant has not a sufficient personal interest in the subject-matter of the application.

Appeal

(5) Any party to a hearing under subsection (3) may appeal an order of the Board on any question of fact or law or both to the Divisional Court within thirty days of the making of the order.

Professional
assistance

(6) The Board may appoint one or more persons having technical or special knowledge of any matter to assist the Board in any capacity in respect of any matter before it.

Injunction
proceedings
in abeyance

6.—(1) Where a farm practice is the subject of an application made under subsection 5 (1), no injunction proceedings may be commenced or continued in respect of that farm practice until the Board has made an order or dismissed the application under subsection 5 (3) or has refused to hear the application.

(2) Subsection (1) does not apply to any proceedings taken under the *Environmental Protection Act*, the *Pesticides Act* or the *Ontario Water Resources Act*.

Exception
R.S.O. 1980,
cc. 141, 376,
361

7. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing forms and providing for their use;
- (b) prescribing fees payable in respect of an application made under subsection 5 (1) and authorizing refunds;
- (c) prescribing the composition of the Board.

8. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

9. The short title of this Act is the *Farm Practices Protection Act, 1988*.

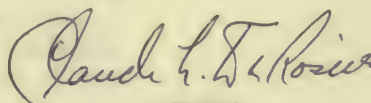
Short title

Bill 84

(Chapter 42
Statutes of Ontario, 1988)

An Act to amend the Corporations Tax Act

The Hon. B. Grandmaître
Minister of Revenue



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 22nd, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subclause 1 (2) (d) (iv) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 1 and amended by 1985, chapter 11, section 1, is repealed and the following substituted therefor:

(iv) where subclause (i) applies,

(A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), section 20, subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k) and section 248 of the *Income Tax Act* (Canada) for the purposes of this Act,

R.S.C. 1952,
c. 148

(B) subsections 192 (4.1) and 194 (4.1) of the *Income Tax Act* (Canada) shall be deemed to apply for the purposes of the application of clause 89 (1) (c) (ii) (C) of that Act for the purposes of this Act, and

(C) the other provision shall not apply for the purposes of the application of any provision of the *Income Tax Act* (Canada), other than a section, subsection,

paragraph, subparagraph or clause referred to in sub-subclause (A) or (B), for the purposes of this Act.

2.—(1) Subsection 16 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 5, is repealed.

(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 5, is repealed.

3.—(1) Clause 17 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) a natural accumulation of petroleum or natural gas, oil or gas well, mineral resource or timber limit; or

.

(2) Subclause 17 (2) (a) (i) of the said Act is repealed and the following substituted therefor:

- (i) natural accumulations of petroleum or natural gas, oil or gas wells or mineral resources in which the corporation has an interest, or

.

4.—(1) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by the Statutes of Ontario, 1983, chapter 29, section 7, is further amended by striking out “section 18a” in the first line and inserting in lieu thereof “in sections 18a and 18b”.

(2) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by the Statutes of Ontario, 1983, chapter 29, section 7, is further amended by adding thereto the following clauses:

- (aa) “assistance” has the meaning given to that expression by paragraph 66 (15) (a.1) of the *Income Tax Act* (Canada);

R.S.C. 1952,
c. 148

.

- (ca) “flow-through share” has the meaning given to that expression by paragraph 66 (15) (d.1) of the *Income Tax Act* (Canada) and includes a share issued pursuant to an agreement entered into by a corporation after the 28th day of February, 1986 and before the

1st day of January, 1987 which qualifies as a "flow-through share" for the purposes of that Act;

.

- (ia) "selling instrument" has the meaning given to that expression by paragraph 66 (15) (h.1) of the *Income Tax Act* (Canada).

(3) Clause 18 (14) (e) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is amended by striking out "paragraph 66 (15) (g.1)" in the second line and inserting in lieu thereof "subsection 248 (1)".

5. The said Act is amended by adding thereto the following section:

18b. Subsections 66 (12.6) to (12.73), (16) and (17) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in so far as they apply to corporations, except that in the application thereof,

Application
of
R.S.C. 1952,
c. 148,
s. 66 (12.6)
to (12.73),
(16) and (17)

- (a) references to "the Minister" in subsections 66 (12.68), (12.69) and (12.73) of that Act shall be read as references to the Minister of National Revenue;
- (b) the reference to "this Part" in subsection 66 (12.71) of that Act shall be read as a reference to Part II of this Act; and
- (c) a prescribed form referred to in subsection 66 (12.68), (12.69) or (12.7) of that Act that was required to be filed, and that was filed, on or before the 19th day of March, 1987, shall be deemed to have been filed at the time required under that subsection.

6. The said Act is further amended by adding thereto the following section:

19a. Section 66.6 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act with the references therein to "this Part" read as references to Part II of this Act.

Application
of
R.S.C. 1952,
c. 148,
s. 66.6

7. Clause 21 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) subsection (1.1) and paragraph (2) (b) thereof are not applicable; and

8. Clause 22 (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 8, is repealed and the following substituted therefor:

- (b) an amount determined in accordance with the rules provided in paragraph 81 (1) (b), (c), (l) or (m) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

9.—(1) Subsection 23 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 8, is repealed and the following substituted therefor:

Idem

- (3) Paragraphs 87 (2) (y.1), (z), (cc) and (pp) and 88 (1) (e.7) of the *Income Tax Act* (Canada) are not applicable for the purposes of this Act.

(2) Subsection 23 (4) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 8, is repealed and the following substituted therefor:

Application
of
R.S.C. 1952,
c. 148, s. 88
(1) (e.2)

- (4) Paragraph 88 (1) (e.2) of the *Income Tax Act* (Canada) shall, in its application for the purposes of this Act, be read without reference therein to paragraphs 87 (2) (y.1), (cc) and (pp) of the said Act, and as though the reference therein to paragraph 87 (2) (p) were a reference to subsection (2) of this section.

10. Section 25 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 10, is further amended by adding thereto the following subsection:

Application
of
R.S.C. 1952,
c. 148, s. 96
(2.1) (b) (iv)
(A)

- (6) For the purposes of this Act, the amount referred to in clause 96 (2.1) (b) (iv) (A) of the *Income Tax Act* (Canada) shall equal the corporation's share of the foreign exploration and development expenses incurred by the partnership in the fiscal period that are deductible in computing income for the purposes of this Act.

11. Section 27 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 8 and 1986, chapter 39, section 8, is further amended by adding thereto the following subsections:

Idem
R.S.C. 1952,
c. 148,
s. 110 (1) (f)
(i)

- (8) Subparagraph 110 (1) (f) (i) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

(9) For the purposes of this Act, the amount referred to in subclause 111 (1) (e) (ii) (C) (I) of the *Income Tax Act* (Canada) shall equal the corporation's share of the foreign exploration and development expenses incurred by the partnership in that fiscal period that are deductible in computing income for the purposes of this Act.

Idem
R.S.C. 1952,
c. 148,
s. 111 (1)
(e) (ii) (C)
(I)

12. Subsection 29 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 12, is further amended by striking out "and" at the end of clause (a), by adding "and" at the end of clause (b) and by adding thereto the following clause:

- (c) in the application of paragraph 115 (1) (d) of the *Income Tax Act* (Canada), no deduction is permitted with respect to an amount referred to in subparagraph 110 (1) (f) (i) of that Act.

13.—(1) Clauses 40 (2) (c) and (d) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, are repealed and the following substituted therefor:

- (c) subparagraph (b) (i) shall be read in its entirety as "the 7 year period referred to in clause 73 (7) (b), where that clause applies"; and
- (d) subparagraph (b) (ii) shall be read in its entirety as "the period referred to in clause 73 (7) (c), in any other case".

(2) Clause 40 (5) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 15, is repealed and the following substituted therefor:

- (b) the reference in clause (C) of the said subparagraph to "this Part" shall be read as a reference to Part II of this Act, and the said clause shall be read without reference to the words "determined without reference to section 123.2".

14. Clause 49 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 9, is repealed and the following substituted therefor:

- (a) a corporation referred to in paragraph 149 (1) (c), (d), (e), (f), (h.1), (i), (j), (k), (m), (n), (o), (o.1), (o.2) or (o.3) of the *Income Tax Act* (Canada).

15. Subsection 54 (2c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 18, is repealed and the following substituted therefor:

Idem

(2c) For the purposes of this Part, "any other surplus" at the close of a taxation year includes, in addition to any other amount included therein by virtue of this section,

- (a) all amounts, other than accounts payable referred to in subsection 53 (1a), owing by the corporation in respect of expenses deductible by the corporation in the calculation of its income subject to tax under Part II, if the amounts are owing to a person with whom the corporation was not dealing at arm's length at the time the liability was incurred; and
- (b) dividends declared,

which were unpaid at the close of the preceding taxation year and remain unpaid and owing to a person with whom the corporation was not dealing at arm's length at the close of the taxation year.

16. Subsection 61 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13 and amended by the Statutes of Ontario, 1983, chapter 29, section 19 and 1986, chapter 39, section 13, is repealed and the following substituted therefor:

Where
corporation is
associated
with or
member of a
partnership

(4) Subsections (1) and (2) do not apply to a corporation where,

- (a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$1,000,000 or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6); or
- (b) the corporation is a member of a partnership or a connected partnership and the aggregate of,
 - (i) the taxable paid-up capital of the corporation, and
 - (ii) the aggregate of the shares of the taxable paid-up capital of the partnership or the connected partnership that are allocable under subsection 53 (4) to each person related to the corporation, to the extent that such amounts

are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

exceeds \$1,000,000 or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6).

17. The said Act is further amended by adding thereto the following section:

61a.—(1) In this section, “a corporation that is a farm equipment dealer” means a corporation whose principal business throughout the taxation year is the retail sale, leasing or servicing of farm equipment, or any combination thereof, but does not include a corporation substantially all of the business of which throughout the taxation year is the servicing of farm equipment.

Farm equipment dealer

(2) Notwithstanding subsections 58 (1) and 59 (1), the tax payable under this Part by a corporation that is a farm equipment dealer for each of its first two taxation years commencing after the 31st day of December, 1986 and before the 1st day of January, 1989, shall be,

Capital tax payable by farm equipment dealer

(a) where the amount subject to tax under this Part does not exceed \$3,000,000, the lesser of,

(i) \$200, and

(ii) either,

(A) where the corporation is otherwise eligible to pay tax under subsection 61 (1) or (2), the tax that would be payable thereunder, or

(B) in any other case, the tax otherwise payable under this Part calculated under subsections 58 (1) and 59 (1); and

(b) where the amount subject to tax under this Part is in excess of \$3,000,000, the lesser of,

(i) the aggregate of,

(A) \$200, and

- (B) the tax that would be payable, under subsections 58 (1) and 59 (1), but not section 61, if the amount subject to tax under this Part was the amount of such excess, and
- (ii) the tax otherwise payable under subsections 58 (1) and 59 (1).

18.—(1) Subsection 73 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is amended by striking out “or farm loss” in the third line and inserting in lieu thereof “farm loss or limited partnership loss”.

(2) Subsection 73 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, is further amended by striking out “or farm loss” in the amendment of 1984 and inserting in lieu thereof “farm loss or limited partnership loss”.

(3) Subsection 73 (4) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, is further amended by striking out “or farm loss” in the amendment of 1984 and inserting in lieu thereof “farm loss or limited partnership loss”.

(4) Subclause 73 (7) (a) (iv) of the said Act is repealed and the following substituted therefor:

- (iv) has filed with the Minister a waiver in a prescribed form on or before the later of,
 - (A) the expiry of a four-year period commencing on the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year, and
 - (B) the latest day such a waiver could be filed under this Act for any previous taxation year, or

(5) Clause 73 (7) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is amended by striking out “eight” in the first line and inserting in lieu thereof “seven”.

(6) Clause 73 (7) (c) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is repealed and the following substituted therefor:

- (c) in any other case, on or before the later of,
 - (i) the expiry of a four-year period commencing on the day of mailing of a notice of the original assessment or of a notification that no tax is payable for the taxation year, and
 - (ii) the latest day on which a reassessment, additional assessment or assessment can be made under any predecessor of this clause for any previous taxation year.

19. Subsection 91 (4) of the said Act is repealed.

20.—(1) This Act, except as provided in subsections (2) to (20), comes into force on the day it receives Royal Assent.

Commence-
ment and
application

(2) Subsection 27 (8) of the said Act, as enacted by section 11 of this Act, and section 12 of this Act shall be deemed to have come into force on the 1st day of January, 1982, and apply with respect to taxation years of corporations ending after the 31st day of December, 1981.

Idem

(3) Section 9 shall be deemed to have come into force on the 1st day of January, 1985, and applies with respect to taxation years of corporations ending after the 31st day of December, 1984.

Idem

(4) Section 3 and subsection 4 (3) shall be deemed to have come into force on the 1st day of April, 1985, and apply with respect to taxation years of corporations ending after the 31st day of March, 1985.

Idem

(5) Subclause 1 (2) (d) (iv) of the said Act, other than sub-clause (B) thereof, as re-enacted by section 1 of this Act, shall be deemed to have come into force on the 23rd day of May, 1985, except as provided in subsections (10) and (12), and in the application thereof, the "other provision" referred to in sub-subclause (A) shall apply for the purposes of the application of subsection 13 (7) of the *Income Tax Act* (Canada) for the purposes of the said Act only with respect to property acquired by a corporation after the 22nd day of May, 1985, other than property acquired by the corporation before the 1st day of January, 1986 pursuant to a written agreement entered into by the corporation before the 23rd day of May, 1985.

Idem

R.S.C. 1952,
c. 148

- Idem** (6) Sub-subclause 1 (2) (d) (iv) (B) of the said Act, as enacted by section 1 of this Act, shall be deemed to have come into force on the 24th day of May, 1985.
- Idem** (7) Section 6 shall be deemed to have come into force on the 20th day of July, 1985, and applies with respect to taxation years of corporations ending after the 19th day of July, 1985.
- Idem** (8) Section 14 shall be deemed to have come into force on the 1st day of November, 1985.
- Idem** (9) Section 7 shall be deemed to have come into force on the 22nd day of November, 1985.
- Idem** (10) The reference to subparagraph 66.1 (6) (b) (xi) of the *Income Tax Act* (Canada) in sub-subclause 1 (2) (d) (iv) (A) of the said Act, as enacted by section 1 of this Act, shall be deemed to have come into force on the 1st day of December, 1985, and applies with respect to expenditures made after the 30th day of November, 1985.
- Idem** (11) Section 8 shall be deemed to have come into force on the 1st day of January, 1986, and applies with respect to taxation years of corporations ending after the 31st day of December, 1985.
- Idem**
R.S.C. 1952,
c. 148 (12) The reference to subsection 96 (2.1) and paragraph 111 (1) (e) of the *Income Tax Act* (Canada) in sub-subclause 1 (2) (d) (iv) (A) of the said Act, as enacted by section 1 of this Act, section 10 of this Act, subsection 27 (9) of the said Act, as enacted by section 11 of this Act and subsections 18 (1), (2) and (3) of this Act shall be deemed to have come into force on the 26th day of February, 1986.
- Idem** (13) Section 15 shall be deemed to have come into force on the 26th day of February, 1986, and applies with respect to liabilities incurred by corporations in taxation years commencing after the 25th day of February, 1986.
- Idem** (14) Subsection 4 (1) of this Act and clause 18 (14) (ca) of the said Act, as enacted by subsection 4 (2) of this Act, shall be deemed to have come into force on the 1st day of March, 1986.
- Idem** (15) Clauses 18 (14) (aa) and (ia) of the said Act, as enacted by subsection 4 (2) of this Act, and the application of subsections 66 (12.6) to (12.73) of the *Income Tax Act* (Canada) for the purposes of the said Act, as enacted by section 5 of this Act, shall be deemed to have come into force on the 1st day of March, 1986, and apply with respect to expenses incurred after the 28th day of February, 1986.

(16) The application of subsections 66 (16) and (17) of the *Income Tax Act* (Canada) for the purposes of the said Act, as enacted by section 5 of this Act, shall be deemed to have come into force on the 1st day of March, 1986, with respect to fiscal periods of partnerships ending after the 28th day of February, 1986. Idem
R.S.C. 1952,
c. 148

(17) Section 19 shall be deemed to have come into force on the 15th day of May, 1986. Idem

(18) Sections 2 and 17 shall be deemed to have come into force on the 1st day of January, 1987. Idem

(19) Subsection 13 (2) shall be deemed to have come into force on the 1st day of January, 1987, and applies with respect to taxation years of corporations ending after the 31st day of December, 1986. Idem

(20) Subsections 13 (1) and 18 (4), (5) and (6) come into force on the day this Act receives Royal Assent and apply with respect to reassessments and assessments for taxation years of corporations commencing after the day this Act receives Royal Assent. Idem

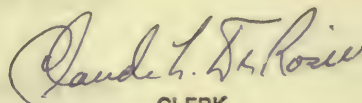
21. The short title of this Act is the *Corporations Tax Amendment Act, 1988*. Short title

Bill 85

(Chapter 43
Statutes of Ontario, 1988)

An Act to amend the Mining Tax Act

The Hon. B. Grandmaître
Minister of Revenue


CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 22nd, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988



Bill 85

1987

An Act to amend the Mining Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (1) (k) of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 1, is amended by striking out "if the manufacturing is carried on in Canada" in the fifth and sixth lines.

2.—(1) Section 3 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 3, is further amended by adding thereto the following subsections:

(5a) If the operator so elects, the operator's profit for the taxation year shall not include the operator's profit, if any, as determined under subsection (5b), earned during that portion of the exempt period that falls within the taxation year,

Exemption
re: new mine
or major
expansion of
existing mine

- (a) from a new mine that has come into existence after the 20th day of May, 1987; or
- (b) from a major expansion of an existing mine that has occurred after the 20th day of May, 1987,

in which the operator has an interest, upon the filing of a declaration in the prescribed form with the operator's return under subsection 7 (1) for the first taxation year in which a portion of the exempt period occurs.

(5b) For the purposes of subsection (5a), the operator's profit shall be determined under subsection (5) as if the operator's interest in the new mine that has come into existence or in the major expansion of the existing mine that has occurred was the only mine in which the operator had an interest during the taxation year provided that,

Determi-
nation of
profit

- (a) the allowance for depreciation to be deducted under clause (5) (h) shall be the amount equal to the

aggregate of the maximum amounts calculated in accordance with clauses (6) (a) and (b), subject to clauses (6) (d) and (e) and subsection (15); and

- (b) no amount shall be deducted in respect of the allowance for depreciation of the operator calculated under clause (6) (c),

in respect of depreciable property that can reasonably be considered to be used in connection with the new mine or with the major expansion of the existing mine.

Prorating
depreciation
allowance

(5c) Where the number of days in the operator's taxation year exceeds the number of days in the portion of the exempt period that falls within that taxation year, the amount of the operator's allowance for depreciation required to be deducted in determining the operator's profit under subsection (5b) shall be equal to that proportion of the allowance for depreciation determined under clause (5b) (a) that the number of days during the portion of the exempt period in the taxation year is of 365.

Exempt
period

(5d) In subsections (5a), (5c) and (5f), "exempt period" means, in respect of a new mine that has come into existence or a major expansion of an existing mine that has occurred, the thirty-six month period commencing with the month during which the new mine or the major expansion came into production in reasonable commercial quantities.

Commence-
ment of
production

(5e) For the purpose of subsection (5d), a new mine or a major expansion of an existing mine shall be deemed to have come into production in reasonable commercial quantities,

- (a) in the case of a new mine, on the first day of the month when the operator thereof first becomes entitled to receive proceeds from the output of the mine; and
- (b) in the case of a major expansion of an existing mine, on the first day that the rate of production of mineral substances from the expanded mine exceeded by at least 30 per cent the average daily rate of production of mineral substances from the mine during each of the five calendar years ending immediately before the calendar year in which the first outlay was made to expand the mine.

Loss

(5f) Where a determination under subsection (5b) produces a loss for a new mine or a major expansion with respect to the portion of the exempt period within the taxation year, sub-

sections (5a) to (5e) do not apply for that new mine or major expansion for the taxation year.

(2) Subsection 3 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 3, is amended by striking out “and” at the end of clause (b) and by adding thereto the following clauses:

- (d) notwithstanding clauses (a), (b) and (e), subsection (15) and clause 4 (3) (b), where the operator's taxation year is less than 365 days, an amount not exceeding that proportion of the aggregate of the amounts determined under clauses (a) and (e), subsection (15) and clause 4 (3) (b) in respect of processing and transportation assets and clause (b) in respect of mining assets that the number of days in the taxation year is of 365; and
- (e) notwithstanding clause (a), where processing assets are situated outside Canada or assets for transporting processed mineral substances are used outside Canada, an amount not exceeding that proportion of the amount determined under clause (a),
 - (i) in respect of processing assets, that the value of mineral substances mined in Ontario is to the total value of mineral substances fed into the processing plant situated outside Canada, or
 - (ii) in respect of assets used for transporting processed mineral substances, that the value of processed product derived from output is of the total value of processed product transported by those assets.

(3) Subsection 3 (10) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 3, is amended by striking out “and” at the end of clause (c), adding “and” at the end of clause (d) and by adding thereto the following clause:

- (e) the total of the amounts not deductible under this Act as a result of the application of clause (6) (e) or subsection (15) in respect of an allowance for depreciation.

(4) Section 3 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 3, is further amended by adding thereto the following subsections:

Reduction in
processing
costs

(15) For the purposes of clauses (5) (b), (c), (d), (e), (i) and (j), (5b) (a) and (6) (a), where a processing plant owned and operated by the operator is,

- (a) located in Ontario, the amount of the operator's expenses, outlays or allowances relating to processing shall be reduced by the proportion that the value of the input of mineral substances mined in Canada outside Ontario is of the total value of the input of mineral substances to the processing plant; or
- (b) located in Canada outside Ontario, the amount of the operator's expenses, outlays or allowances shall be reduced by the proportion that the aggregate of the value of input of,
 - (i) mineral substances from Ontario mines, other than mineral substances from the operator's Ontario mines, and
 - (ii) mineral substances from mines located outside Ontario, whether from the operator's mines or not,

is of the total value of the input of mineral substances to the processing plant.

Processing
plant located
outside
Canada

(16) No deduction shall be made under clauses (5) (c), (d), (e) and (f) for expenses and outlays related to processing at an operator's processing plant located outside Canada.

3.—(1) Clause 4 (3) (b) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 4, is repealed and the following substituted therefor:

- (b) the deduction allowed under clause 3 (5) (h) in respect of processing assets situated in Canada, assets for transporting processed mineral substances to market from the point at which processing in Canada is completed and mining assets acquired prior to the 10th day of April, 1974, attributable to the operation of a specified uranium undertaking, shall not be,
 - (i) greater than the lesser of 15 per cent of the capital cost and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause

3 (5) (h) in respect of the assets for the taxation year), and

- (ii) less than the lesser of 5 per cent of the capital cost of the assets as of the end of the taxation year and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause 3 (5) (h) in respect of the assets for the taxation year); and

(2) Section 4 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 4, is further amended by adding thereto the following subsection:

(6) Notwithstanding subsection 3 (5), where mineral substances are transported outside Canada to be processed by or on behalf of the operator, no deduction shall be made for expenses and outlays incurred outside Canada relating to the processing of the operator's output that is attributable to a specified uranium undertaking in respect of a taxation year ending after the 9th day of April, 1979.

Processing
expenses and
outlays
incurred
outside
Canada

4.—(1) Subclause 9 (1) (a) (iv) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 9, is repealed and the following substituted therefor:

(iv) has filed with the Minister a waiver in the prescribed form on or before the later of,

(A) the expiry of a four-year period commencing on the day of mailing of the notice of an original assessment, and

(B) the latest day such a waiver could be filed under this Act for any previous taxation year; and

(2) Clause 9 (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 9, is repealed and the following substituted therefor:

(b) in any other case, on or before the later of,

- (i) the expiry of a four-year period commencing on the day of mailing of the original notice of assessment, and
- (ii) the latest day on which a reassessment, additional assessment or assessment can be made under any predecessor of this clause for any previous taxation year,

5. Section 17 of the said Act is repealed.

6. Clause 26 (1) (g) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 22, is repealed and the following substituted therefor:

- (g) prescribing the manner of determining and the matters to be taken into account in determining whether there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of subsection 3 (5a) and clause 3 (6) (c) and the time at which a mine project is completed for the purposes of clause 3 (6) (c).

Commence-
ment

7.—(1) Except as provided in subsections (2) to (4), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) and section 6 shall be deemed to have come into force on the 21st day of May, 1987, and apply in respect of taxation years ending after the 20th day of May, 1987.

Idem

(3) Section 1, subsections 2 (2), (3) and (4) and section 3 shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of taxation years ending after the 31st day of March, 1986.

Idem

(4) Section 4 comes into force on the day this Act receives Royal Assent and applies to assessments, reassessments and additional assessments for taxation years of operators commencing after the day this Act receives Royal Assent.

Short title

8. The short title of this Act is the *Mining Tax Amendment Act, 1988*.

Bill 86

(Chapter 44
Statutes of Ontario, 1988)

An Act to amend the Highway Traffic Act

The Hon. E. Fulton
Minister of Transportation

Paul L. H. ...

CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 20th, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

Bill 86

1987

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding thereto the following clause:

- (c) as a public truck within the meaning of the *Truck Transportation Act, 1988*, 1988, c. ...

2. The said Act is amended by adding thereto the following sections:

15a.—(1) In this section and in sections 15d and 15e,

Definitions

“commercial motor vehicle” does not include,

- (a) an ambulance, a fire apparatus, a hearse, a casket wagon, a mobile crane, a motor home, a vehicle commonly known as a tow truck or a commercial motor vehicle, other than a bus, having a registered gross weight of not more than 4500 kilograms,
- (b) a commercial motor vehicle leased for no longer than thirty days by an individual for the transportation of goods kept for that individual’s personal use or the gratuitous carriage of passengers,
- (c) a commercial motor vehicle operated under a permit and number plates issued under a regulation made under clause 7 (14) (f) or (fa) that is not transporting passengers or goods,

(d) a commercial motor vehicle operated under the authority of an In-Transit permit, and

(e) a bus that is used for personal purposes without compensation;

“CVOR certificate” means a Commercial Vehicle Operator’s Registration Certificate issued under this Act;

“operator” means the person responsible for the operation of a commercial motor vehicle including the conduct of the driver of, and the carriage of goods or passengers, if any, in the vehicle or combination of vehicles;

1988, c. ... “owner-driver authority” means an owner-driver authority issued under the *Truck Transportation Act, 1988*;

“single-source authority” means a single-source authority issued under the *Truck Transportation Act, 1988*.

CVOR
certificate
required

(2) No person shall drive or operate a commercial motor vehicle on a highway unless the operator is the holder of a CVOR certificate that is not under suspension.

Documents
to be carried

(3) Every driver of a commercial motor vehicle shall carry the original or a copy of,

(a) the CVOR certificate issued to the operator of the vehicle;

(b) the lease of the vehicle meeting the requirements of subsection (5) if it is a leased vehicle; or

(c) the applicable contract or the notice thereof, as filed with the Ministry, meeting the requirements of subsection (5) if the vehicle is operated under an owner-driver authority or single-source authority,

and where the operator has been issued fleet limitation certificates, a fleet limitation certificate.

Documents
to be
surrendered

(4) Every driver of a commercial motor vehicle shall, upon the demand of a police officer, surrender for inspection the documents that are required under subsection (3) to be carried.

Requirements
for lease or
contract

(5) Every lease, contract or notice of contract carried under subsection (3) shall clearly identify the vehicle involved, the parties thereto and their addresses, the operator of the vehicle and the operator’s CVOR certificate.

(6) A commercial motor vehicle operated under the authority of an owner-driver authority or single-source authority shall be deemed to be operated by the person or partnership that contracted with the holder of the licence. Deemed operator

(7) For a commercial motor vehicle, for which an Ontario permit is not in force and which bears number plates from and is registered in another province or state, the motor vehicle permit may be substituted for a CVOR certificate for the purposes of subsections (2) and (3) if the operator of the commercial motor vehicle is not the holder of a CVOR certificate. Substitution for CVOR certificate

15b.—(1) The Minister shall issue a CVOR certificate to every person who applies therefor in the prescribed form and meets the requirements of this Act and the regulations. Certificates issued by Minister

(2) The Minister may refuse to issue a CVOR certificate to a partnership or corporation where a partner or officer thereof is the holder of, or a partner or officer of a holder of, a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2). Refusal to issue

(3) The Minister may refuse to issue a CVOR certificate to an individual where the individual is a partner of a partnership or officer of a corporation that is the holder of a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2). Idem

(4) No person, alone or in partnership, is entitled to hold more than one CVOR certificate. One certificate only

15c. Every corporate holder of a CVOR certificate shall notify the Minister in writing, within fifteen days after any change in the name, address or persons constituting the officers of the corporation, of the change made. Changes

15d. In the absence of evidence to the contrary, where there is no CVOR certificate, lease or contract applicable to a commercial motor vehicle, the holder of the plate portion of the permit for the vehicle shall be deemed to be the operator for the purposes of sections 15c and 15e. Person deemed to be operator

15e.—(1) Every person who gives up possession of a commercial motor vehicle under a lease or contract shall retain a copy of the lease or contract in his place of business for a period of one year after the termination of the lease or contract. Retaining lease or contract

Where
contravention
of
subs. 15a (2)
or 30 (3e)

(2) A police officer who has reason to believe that a commercial motor vehicle is being operated in contravention of subsection 15a (2) or 30 (3e) may,

(a) detain the vehicle at any location that is reasonable in the circumstances; and

(b) seize the permits and number plates for the vehicle,

until the vehicle can be moved without a contravention of this Act occurring.

Permit
suspended

(3) Every permit seized under subsection (2) shall be deemed to be under suspension for the purposes of section 33 while it is in the custody of the officer seizing it.

Lien

R.S.O. 1980,
c. 261

(4) The costs incurred in detaining a vehicle under subsection (2) are a lien on the vehicle, which may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*.

Court
application

(5) The person entitled to possession of a vehicle that is detained or the permits or plates of which are seized under subsection (2) may apply to the District Court for an order that the vehicle be released or the permits and plates returned, as the case may be.

Security

(6) On an application being made under subsection (5), the Court may make the order applied for on condition that a security, for the payment of any fine imposed, in such amount as is determined by the Court but not exceeding \$5,000 be deposited with the Court.

Return of
security

(7) Every security deposited under subsection (6) shall be returned,

(a) upon a final acquittal under all charges arising in connection with the seizure or detention;

(b) where a charge is not laid within six months after the seizure or detention, on the expiration of the six month period; or

(c) upon a conviction arising in connection with the seizure or detention, after withholding the amount of the fine.

Offence

15f.—(1) Every person who contravenes subsection 15a (3) or (4), section 15c or 15e or a regulation made under

section 15g is guilty of an offence and on conviction is liable to a fine of not more than \$500.

(2) Every person who contravenes subsection 15a (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both. Idem

15g. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms;
- (b) prescribing fees for the replacement of CVOR certificates;
- (c) classifying persons and vehicles and exempting any class of person or vehicle from any provision of section 15a and prescribing conditions for any such exemption;
- (d) prescribing the qualifications required to obtain and to hold CVOR certificates and authorizing the Minister to waive such qualifications as are specified in the regulations under the circumstances prescribed therein;
- (e) providing for the suspension or cancellation of CVOR certificates where the prescribed qualifications or conditions are not maintained;
- (f) respecting documents and information to be filed with or supplied to the Ministry prior to the issuance of CVOR certificates or as a condition of retention thereof by the holders of CVOR certificates;
- (g) requiring the attendance of certificate holders to show why a certificate should not be cancelled or suspended.

3. Subsection 21 (2) of the said Act is repealed and the following substituted therefor:

(2) Notwithstanding clause (1) (e), a person may hold a second driver's licence if the second licence is, Second
driver's
licence
permitted

- (a) issued solely to permit the licensee to obtain experience in the driving of a motorcycle for the purpose

of qualifying for a driver's licence that authorizes him or her to drive a motorcycle; or

- (b) required by any other province or territory of Canada or any state of the United States of America and has been issued in compliance with the law of that province, territory or state.

Definition

(3) For the purposes of this section, "driver's licence" includes a licence issued by any other province or territory of Canada or by any state of the United States of America.

4.—(1) Subsections 30 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

Registrar
may suspend,
cancel
licence, etc.

(1) The Registrar may suspend or cancel,

- (a) the plate portion of a permit as defined in Part II;
- (b) a driver's licence; or
- (c) a CVOR certificate,

on the grounds of,

- (d) misconduct for which the holder is responsible, directly or indirectly, related to the operation or driving of a motor vehicle;
- (e) conviction of the holder for an offence referred to in subsection 184 (1) or (1a); or
- (f) any other sufficient reason not referred to in clause (d) or (e).

Restriction

(2) As an alternative to a suspension or cancellation under subsection (1), the Registrar may restrict the number of commercial motor vehicles that may be operated by a holder of a CVOR certificate during such period as the Registrar stipulates.

New licence,
etc., not to
be issued

(3) A person whose permit, licence or certificate is under suspension is not entitled to be issued a certificate, licence or plate portion of a permit, as the case may be.

Fleet
limitation
certificates

(3a) Where a restriction is imposed under subsection (2), the Registrar shall issue to the holder of the CVOR certificate fleet limitation certificates in a number equal to the number of vehicles permitted to be operated.

(3b) Every person whose permit for a motor vehicle is suspended or cancelled and who, while prohibited from having such a motor vehicle registered in his or her name, applies for or procures the issue or has possession of the plate portion of a permit for such a motor vehicle issued to him or her is guilty of an offence and on conviction is liable,

- (a) to a fine of not less than \$40 and not more than \$200 where the vehicle is not a commercial motor vehicle; or
- (b) to a fine of not less than \$100 and not more than \$1,000 where the vehicle is a commercial motor vehicle,

or to imprisonment for a term of not more than thirty days, or to both a fine and imprisonment.

(3c) Every person whose licence is suspended or cancelled and who, while prohibited from driving a motor vehicle, applies for or procures the issue to or has possession of any portion of a licence other than a Photo Card portion issued to him or her is guilty of an offence and on conviction is liable to a fine of not less than \$40 and not more than \$200 and to imprisonment for a term of not more than thirty days.

(3d) Every person whose CVOR certificate is suspended who applies for or procures the issue of a CVOR certificate to him or her is guilty of an offence and on conviction is liable, to a fine of not less than \$100 and not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

(3e) Every person,

- (a) in respect of whom a restriction is imposed under subsection (2) who operates a commercial motor vehicle in which a valid fleet limitation certificate is not carried; or
- (b) who operates a commercial motor vehicle without a permit or certificate or when his or her permit or certificate is under suspension,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(3f) For the purposes of this section, "commercial motor vehicle" has the same meaning as defined in section 15a.

(2) Subsection 30 (4) of the said Act is amended by inserting after "Act" in the second line "*the Truck Transportation Act, 1988*".

5.—(1) Subsections 30a (6), (10), (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, are repealed and the following substituted therefor:

Intent of
suspension

(10) The suspension of a licence under this section is intended to safeguard the licensee and the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

Duty of
officer

(11) Every officer who asks for the surrender of a licence under this section shall keep a written record of the licence received with the name and address of the person and the date and time of the suspension and, at the time of receiving the licence, shall return the Photo Card portion of the licence, if the licence consists of a Photo Card and Licence Card, and provide the licensee with a written statement of the time from which the suspension takes effect, the length of the period during which the licence is suspended, and the place where the licence or Licence Card portion thereof may be recovered.

Removal of
vehicle

(12) If the motor vehicle of a person whose licence is suspended under this section is at a location from which, in the opinion of a police officer, it should be removed and there is no person available who may lawfully remove the vehicle, the officer may remove and store the vehicle or cause it to be removed and stored, in which case, the officer shall notify the person of the location of the storage.

Cost of
removal

R.S.O. 1980,
c. 261

(12a) Where a police officer obtains assistance for the removal and storage of a motor vehicle under this section, the costs incurred in moving and storing the vehicle are a lien on the vehicle that may be enforced under the *Mechanics' Lien Act* by the person who moved or stored the vehicle at the request of the officer.

(2) Clause 30a (13) (a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 5, is amended by inserting after "licence" in the second line "and a driver's licence issued by any other jurisdiction".

6. Subsection 44 (15) of the said Act is amended by inserting after "*Public Vehicles Act*" in the fourth line "*the Truck Transportation Act, 1988*".

7. The said Act is further amended by adding thereto, in Part V, the following section:

90a.—(1) In this section, “commercial motor vehicle” and “operator” have the meaning prescribed under this section and not as set out in this Act. Definitions

(2) Every operator shall establish a system to periodically inspect, repair and maintain all commercial motor vehicles and trailers under the operator’s control that are operated on a highway. Regular maintenance

(3) Every operator shall inspect, repair and maintain or cause to be inspected, repaired and maintained all commercial motor vehicles and trailers under the operator’s control in accordance with the prescribed vehicle component performance standards and the operator’s system for periodic inspections. Idem

(4) Every operator shall instruct every driver of commercial motor vehicles under the operator’s control to conduct or cause to be conducted a prescribed inspection of the commercial motor vehicles and trailers to be driven or towed by the driver prior to the motor vehicles being driven or the trailers being towed on a highway. Inspection

(5) No driver shall drive a commercial motor vehicle or tow a trailer on a highway unless the prescribed inspection of the vehicle or trailer has been conducted or caused to be conducted by that driver. Idem

(6) Every driver who reasonably believes or suspects that the state, condition or components of a vehicle or trailer that driver is about to or is driving or towing, as the case may be, on a highway do not meet the prescribed standards shall report the belief or suspicion to the operator. Reporting defects

(7) No driver shall drive a vehicle or tow a trailer on a highway if the driver determines as a result of an inspection that the state, condition or components of the vehicle or trailer do not meet the prescribed standards. Driving defective vehicle prohibited

(8) No operator shall permit a commercial motor vehicle to be driven or a trailer to be towed on a highway if the operator has reason to believe that the state, condition or components of the vehicle or trailer do not meet the prescribed standards. Idem

(9) Every operator, owner and driver of a commercial motor vehicle shall maintain or cause to be maintained such books and records as are prescribed. Operator’s duty

(10) Every driver shall carry the inspection report in respect of the prescribed inspection at all times while in Driver to carry inspection report

charge of a commercial motor vehicle on a highway and shall surrender the report to any police officer or officer appointed for the purpose of carrying out the provisions of this Act or the regulations made under this Act on demand of the officer.

Definition (11) In this section, “prescribed” means prescribed by the regulations made under this section.

Regulations (12) The Lieutenant Governor in Council may make regulations,

- (a) respecting the driving or operation of commercial motor vehicles and trailers;
- (b) governing the method and requirements for inspecting vehicles referred to in clause (a);
- (c) prescribing books and records that shall be kept by operators, owners and drivers of commercial motor vehicles;
- (d) requiring the retention of prescribed books and records by operators, owners and drivers of commercial motor vehicles and prescribing the information to be contained and the entries to be recorded therein and the places where they shall be maintained;
- (e) prescribing inspection, repair and maintenance standards for commercial motor vehicles and trailers;
- (f) prescribing vehicle component performance standards for commercial motor vehicles and trailers;
- (g) exempting any person or class of persons or any vehicle or class of vehicles from any requirement in this section or any regulation made under this section and prescribing conditions for any such exemption;
- (h) defining “commercial motor vehicle” and “operator” for the purposes of this section;
- (i) prescribing anything that is referred to in this section as prescribed.

**Adoption by
reference**

(13) Any regulation made under subsection (12) may adopt by reference in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code

or standard, or any regulation made by the Government of Canada or the United States of America.

(14) Every operator or owner who contravenes any provision in this section or the regulations made under this section is guilty of an offence and on conviction is liable, Offence
—operator,
owner

- (a) for a first offence, to a fine of not less than \$250 and not more than \$2,000; and
- (b) for each subsequent offence, to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(15) Every driver who contravenes any provision in this section or the regulations made under this section is guilty of an offence and on conviction is liable, —driver

- (a) for a first offence, to a fine of not less than \$100 and not more than \$500; and
- (b) for each subsequent offence, to a fine of not less than \$250 and not more than \$500 or to imprisonment for a term of not more than six months, or to both.

(16) An offence referred to in subsection (14) or (15) committed more than five years after a previous conviction for any offence under this section or the regulations made under this section is not a subsequent offence for the purposes of clause (14) (b) or (15) (b). Subsequent
offence

8. Subsection 104 (5) of the said Act is amended by striking out “produced” in the fifth line and inserting in lieu thereof “surrendered” and by inserting after “Act” where it occurs the first time in the seventh line “the *Truck Transportation Act*, 1988”.

9. The said Act is further amended by adding thereto the following section:

165a.—(1) In this section, “commercial motor vehicle” and “operator” have the meaning prescribed under this section and not as set out in this Act. Definitions

(2) No person shall drive a commercial motor vehicle on a highway except in accordance with this section and the regulations made under this section. Driving
restrictions

- Daily log (3) Every driver shall maintain a daily log and shall carry it at all times while in charge of a commercial motor vehicle on the highway.
- Surrender of daily log (4) Every driver who is required under subsection (3) to carry a daily log shall surrender it to any police officer or officer appointed for the purpose of carrying out the provisions of this Act upon demand by the officer.
- One daily log only (5) No driver shall make or have more than one daily log that records the same time period or overlapping time periods.
- Operator's duty (6) No operator shall permit a person to drive a commercial motor vehicle on a highway except in accordance with this section or the regulations made under this section.
- Regulations (7) The Lieutenant Governor in Council may make regulations,
- (a) prescribing the books, logs and records that shall be kept by operators and drivers of commercial motor vehicles;
 - (b) requiring the retention of books, logs and records, the information to be contained and the entries to be recorded therein and the places where they shall be kept;
 - (c) prescribing hours of work, periods of rest and other requirements for the purpose of subsection (2), including prescribing different hours or periods for different types of work or driving;
 - (d) exempting any person or class of persons or any vehicle or class of vehicles from any requirement in this section or any regulation made under this section and prescribing conditions for any such exemption;
 - (e) defining "commercial motor vehicle" and "operator" for the purposes of this section.
- Offence (8) Every person who contravenes a provision of this section or a regulation made under this section is guilty of an offence and on conviction is liable,
- (a) for a first offence, to a fine of not less than \$250 and not more than \$2,000; and

- (b) for each subsequent offence, to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(9) An offence referred to in subsection (8) committed more than five years after a previous conviction for an offence under subsection (8) is not a subsequent offence for the purpose of clause (8) (b).

Time limit
for
subsequent
offence

10. Section 166 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 37, is further amended by adding thereto the following subsection:

(3) In addition to any liability of an owner incurred under subsection (1), the operator of a commercial motor vehicle, as defined in subsection 15a (1), is liable for loss or damage sustained by any person by reason of negligence in the operation of the commercial motor vehicle on a highway.

Liability of
operator of
commercial
motor vehicle

11.—(1) Subclause 179 (c) (iii) of the said Act is repealed and the following substituted therefor:

- (iii) a record of all licences, permits and CVOR certificates issued, suspended, revoked, cancelled or revived under this Act.

(2) Clause 179 (c) of the said Act is amended by striking out “and” at the end of subclause (v), by renumbering subclause (vi) as subclause (vii) and by adding thereto the following subclause:

- (vi) an operating record of every conviction of every CVOR certificate holder and the holder's agents and employees that is reported to the Registrar under section 184 and such other convictions, whether or not the certificate holder was the person convicted, as the Registrar considers useful for the purpose of the administration and enforcement of this Act, and

12. Section 181 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 15, section 12 and 1983, chapter 63, section 43, is further amended by adding thereto the following subsection:

Definition

(5) In this section, "owner" includes operator as defined in section 15a or as deemed in section 15d.

13. Subsection 190 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 63, section 46, is amended by striking out "subsection 30 (2) or (3)" in the fourth line and inserting in lieu thereof "subsection 30 (3b), (3c), (3d) or (3e)".

14. Subsection 194a (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 17, is amended by inserting after "the" in the first line "*Truck Transportation Act, 1988*", by inserting after "service" in the seventh line "on the operator of the vehicle as defined in subsection 15a (1) or" and by inserting after "unless" in the eighth line "in the case of the owner".

15. The said Act is further amended by adding thereto the following section:

Inspection of records

194b.—(1) An officer of the Ministry may, during normal business hours upon production of his or her designation as an officer, enter any place of business of a person required under this Act or the regulations to keep records for the purpose of inspecting those records.

Idem

(2) An officer of the Ministry, for the purpose of ensuring that the provisions of this Act and the regulations are being complied with, is authorized to inspect any records required to be kept under this Act or the regulations.

Copies

(3) An officer examining any records under this section may, on giving a receipt therefor, remove any record for the purpose of making copies thereof but the copying must be made quickly and the record promptly returned.

Idem

(4) Any copy made under subsection (3) and certified as a true copy by the person making it is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the record copied and its contents.

Obstruction prohibited

(5) No person shall obstruct any officer from doing anything that he or she is authorized by this section to do or to withhold from the officer or conceal or destroy any record that the officer is authorized to examine or to copy.

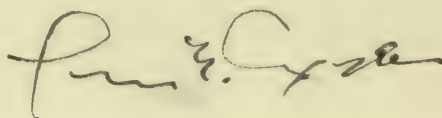
Penalty

(6) Every person who contravenes subsection (5) is guilty of an offence and on conviction is liable to a fine of not less

than \$100 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

17. The short title of this Act is the *Highway Traffic Amendment Act, 1988*. Short title

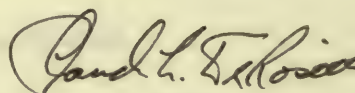


Bill 87

*(Chapter 63
Statutes of Ontario, 1988)*

An Act to amend the Ontario Highway Transport Board Act

The Hon. E. Fulton
Minister of Transportation



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 20th, 1988
<i>3rd Reading</i>	December 15th, 1988
<i>Royal Assent</i>	December 15th, 1988

Bill 87

1987

An Act to amend the Ontario Highway Transport Board Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (c) and (d) of the *Ontario Highway Transport Board Act*, being chapter 338 of the Revised Statutes of Ontario, 1980, are repealed.

2. Section 2 of the said Act is amended by adding thereto the following subsection:

(3) The members shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. Remuner-
ation

3. Section 16 of the said Act is amended by inserting after "application" in the second line "with respect to matters arising under the *Public Commercial Vehicles Act* or the *Public Vehicles Act*".

4. The said Act is amended by adding thereto the following sections:

16a.—(1) The Board may, if it considers it appropriate to do so, or shall, on the direction of the Minister or the Lieutenant Governor in Council, rehear any application or reconsider any decision, order, declaration or ruling made by it under the *Truck Transportation Act*, 1988. Review re
1988, c. 64

(2) After a rehearing or reconsideration under subsection (1), the Board may amend, revoke or confirm the decision, order, declaration or ruling. Idem

(3) The powers of the Board under this section and section 16 are concurrent with the powers of the Minister related to the suspension and cancellation of operating licences. Concurrent
powers

Appeal to
Board

16b.—(1) Any person objecting to a decision of the Board,

1988, c. 64

(a) made as a result of a hearing under the *Truck Transportation Act, 1988* to conduct a public interest test; or

(b) made under this Act,

may, with the consent of the Board, appeal the decision.

Idem

(2) Where the grounds for an appeal under subsection (1) are that new facts have arisen since the hearing or that the decision was based on an error of fact, the appeal shall be heard by the same members who made the original decision.

Idem

(3) Where the grounds for an appeal are other than those set out in subsection (2), the appeal shall be heard by members who were not involved in the original decision.

Interim
licence

(4) The Board, when it consents to an appeal under subsection (1), may recommend that the Minister grant an interim operating licence that is valid until the final disposition of the appeal.

Reviewing
operations
and conduct

16c.—(1) The Board may, with the prior approval of the Minister, if it considers it appropriate to do so, or shall, on the direction of the Minister, hold a hearing,

R.S.O. 1980,
c. 198

(a) into the operation of any transportation service conducted by means of commercial motor vehicles, within the meaning of section 15a of the *Highway Traffic Act*; or

(b) into the conduct of any holder of a Commercial Vehicle Operator's Registration Certificate,

to determine whether the operation or conduct,

R.S.C. 1970,
c. M-14

(c) contravenes the provisions of the *Truck Transportation Act, 1988*, *Motor Vehicle Transport Act* (Canada) or the regulations thereunder; or

(d) constitutes a persistent breach of contracts between the provider of the service or certificate holder and shippers.

Order by
Board

(2) When, after a hearing under subsection (1), the Board determines that there has been a contravention, it may order,

- (a) that the operation of the transportation service in the manner that caused the contravention stop;
- (b) that the conduct of the holder of the Commercial Vehicle Operator's Registration Certificate that constituted the contravention stop; or
- (c) if the operator of the transportation service is the holder of an operating licence, that the licence be amended to expire upon a specified date.

(3) Subsection (2) does not apply where the hearing is the result of a direction by the Minister if, at the time of the direction, the Minister also directed the Board to report its findings to the Registrar of Motor Vehicles.

Report to
Registrar

16d. The Board shall give the Minister thirty days notice of every hearing under section 16a.

Notice to
Minister

5. Subsection 19 (3) of the said Act is amended by striking out "under the *Public Vehicles Act* or the *Public Commercial Vehicles Act*" in the fourth and fifth lines.

6. Section 22 of the said Act is amended by inserting after "Board" in the fourth line "in respect of a matter arising under the *Public Vehicles Act* or the *Public Commercial Vehicles Act*".

7. Section 25 of the said Act is amended by adding thereto the following subsections:

(1a) Subject to regulations made under subsection (1), the Board may determine its own practice and procedure.

Idem

(1b) The Board may appoint from time to time one or more persons who may be called by the Board to give evidence of opinion and fact, subject to cross-examination, before the Board to assist it during the hearing of any matter.

Expert
evidence

8. Section 26 of the said Act is amended by adding thereto the following subsection:

(2) The Board may order any parties to a hearing before it to pay the costs of any of the other parties involved or may make any other order with respect to costs that under all the circumstances it considers just.

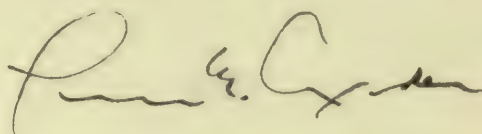
Costs

Commence-
ment

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

10. The short title of this Act is the *Ontario Highway Transport Board Amendment Act, 1988*.

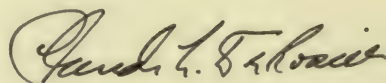


Bill 88

*(Chapter 64
Statutes of Ontario, 1988)*

An Act to regulate Truck Transportation

The Hon. E. Fulton
Minister of Transportation



**CLERK
LEGISLATIVE ASSEMBLY**

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 20th, 1988
<i>3rd Reading</i>	December 15th, 1988
<i>Royal Assent</i>	December 15th, 1988

THE UNIVERSITY OF CHICAGO

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Bill 88

1987

An Act to regulate Truck Transportation

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Definitions

“Board” means the Ontario Highway Transport Board;

“commercial motor vehicle” means a motor vehicle with a permanently attached truck or delivery body and includes a

truck tractor used for hauling purposes, but does not include an ambulance, hearse, casket wagon, fire apparatus, bus or motor vehicle commonly known as a tow truck when the tow truck is being used as a tow truck;

“commercial vehicle” means,

R.S.O. 1980,
c. 198

- (a) a commercial motor vehicle or a combination of a commercial motor vehicle and trailer or trailers as defined in the *Highway Traffic Act*,
- (b) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in the *Highway Traffic Act*, or
- (c) the combination of a motor vehicle, as defined in the *Highway Traffic Act*, drawing a trailer or trailers, as defined in that Act;

“Committee” means the Advisory Committee on Truck Transportation;

“compensation” includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;

“dual-purpose vehicle” means a motor vehicle, other than one commonly known as a passenger car, designed by the manufacturer for the transportation of persons and goods;

“goods” includes all classes of materials, wares and merchandise and live stock;

“highway” means a highway as defined in the *Highway Traffic Act*;

“implementation date” means the day subsection 3 (1) is proclaimed to be in force;

“licensee” means the holder of an operating licence issued under this Act;

“Minister” means the Minister of Transportation;

“Ministry” means the Ministry of Transportation;

“officer” means a member of the Ontario Provincial Police Force or an officer of the Ministry designated in writing by the Minister to assist in the enforcement of this Act;

“operate” means to cause to be driven on a highway and
“operated” has a corresponding meaning;

“operating authority” means a specific authority to operate
that is contained within an operating licence;

“operating licence” means an operating licence issued under
this Act containing one or more operating authorities;

“owner” means the person in whose name the vehicle portion
of a permit is issued for a motor vehicle under the *Highway
Traffic Act*;

R.S.O. 1980,
c. 198

“prescribed” means prescribed by the regulations;

“public truck” means a commercial motor vehicle or the com-
bination of a commercial motor vehicle and trailer or trail-
ers drawn by it, operated by the holder of an operating
licence;

“Registrar” means the Registrar of Motor Vehicles appointed
under the *Highway Traffic Act*;

“regulations” means the regulations made under this Act;

“road construction materials” means rubble carried to or from
a construction or demolition site and 01 928—animal or
poultry manure, 10—metallic ores, 14 1—dimension stone,
quarry, 14 2—crushed or broken stone or riprap,
14 41—gravel or sand, excluding abrasive, 14 51—clay,
ceramic or refractory minerals, crude, 14 714—apatite or
phosphate rock, clay or sand, crude, excluding ground or
otherwise treated, 14 715—rock salt, crude, crushed, lump
or screened, excluding sodium chloride (common salt),
14 719—chemical or fertilizer minerals, not elsewhere clas-
sified, excluding ground or otherwise treated, 14 919—non
metallic minerals, not elsewhere classified, loam, soil or
topsoil, not elsewhere classified, excluding ground or other-
wise treated at mine site or fuels, 28 126 32—calcium chlo-
ride, liquid, 28 126 33—calcium chloride, other than liquid,
28 181 70—urea, other than liquor or liquid, 28 71—
fertilizers excluding milled, mined or otherwise prepared,
natural boron, sodium or potassium compounds,
28 991—salt, common, 29 116—asphalt pitches or tars,
petroleum, coal tar, coke oven or natural gas,
29 511 40—composition, paving, consisting of sand, slag or
stone and asphalt, pitch or tar combined, 29 511
45—paving composition, consisting of stone, granulated
cork and asphalt, 32 952 15—cinders, clay, shale (expanded
shale), slate or volcanic (not pumice stone) or haydite,

32 952 53—slag, basic (cementitious), ground or pulverized,
 32 952 60—slag, basic (phosphate), ground or pulverized,
 32 952 78—slag, furnace, crushed, expanded, granulated,
 ground or pulverized, viz, aluminum, antimony (refuse
 from antimony ore), brass, copper, detinning (refuse
 derived from detinning process), ferro silicon (flue slag
 from ferro-silicon or silicon metal production furnaces),
 iron, iron-titanium (iron titanium bearing slag), lead, mag-
 nesium, nickel, tin or zinc, 32 952 91—slag, nec, crushed,
 granulated, ground or pulverized, without commercial
 value for the further extraction of metal, 33 112—furnace
 slag, excluding ground or otherwise treated;

“STCC” means the Standard Transportation Commodity
 Code Tariff 6001-O, as amended effective the 1st day of
 July, 1987, filed with the National Transportation Agency;

“STCC number” means a number in STCC representing the
 goods or materials classified under that number;

“toll” means any fee or rate charged, levied or collected for
 the transportation of goods in or on a public truck.

Idem

(2) Where, in this Act or the regulations, a reference to
 goods or materials is preceded by a STCC number, the goods
 or materials referred to are those indicated in the STCC by
 reference to that number.

Purpose

2. It is hereby declared that an effective goods movement
 system by highway is essential to advance the interests of the
 users of transportation and to maintain the economic well-
 being and growth of Ontario and that these objectives are to
 be achieved by the regulatory scheme established by this Act
 which is to be interpreted so as to advance the objective that
 the system will,

- (a) foster productive, fair and innovative competition
 and the existence of a dependable and viable truck-
 ing industry in furtherance of the public interest;
 and
- (b) be of benefit to the users of transportation services
 and not for the protection from competition of indi-
 vidual providers of such services.

Operating
 licence
 required to
 transport
 goods for
 compensation

3.—(1) No person shall operate a commercial vehicle to
 carry goods of any other person for compensation unless it is
 done,

- (a) under an operating licence held by the person operating the vehicle; and
- (b) pursuant to the licence.

(2) Every operating licence authorizes the holder thereof to carry 01 928 1—unprepared manure from animal, bird, dog, fowl, goat, sheep or guano, 14 719—chemical or fertilizer minerals, not elsewhere classified in STCC, 28 181 70—urea, other than liquid and 28 71—fertilizers in bulk to or from any point within Ontario during April, May and June in a commercial vehicle that is not a tank vehicle.

General
authority

(3) An operating licence that is an owner-driver or single-source operating authority authorizes the operation of a commercial vehicle to carry goods for compensation only when a notice of the contract under which the particular vehicle is being operated has been filed with the Ministry as prescribed.

Owner-driver
licence,
single-source
licence
limitations

(4) Subsection (1) does not apply to prohibit the carriage of,

Exception

- (a) goods solely within a commercial zone designated under section 14 or an urban municipality;
- (b) fresh fruit and fresh vegetables grown in continental United States of America or Mexico;
- (c) goods used on farms and farm products that are 01 1—field crops, 01 2—fresh fruits or tree nuts, 01 3—fresh vegetables, 01 91—horticultural specialties, 01 99—farm products, not elsewhere classified in STCC, 01 41—live stock and 01 92—animal specialties that are carried in a commercial motor vehicle equipped with not more than three axles that does not draw a trailer;
- (d) 01 421 10—milk, fresh, unprocessed and 20 261—bulk fluid milk, skim milk or cream carried on behalf of The Ontario Milk Marketing Board;
- (e) wheat by a person appointed to act as agent for the Ontario Wheat Producers' Marketing Board where the wheat is being carried from the agent's premises in a commercial vehicle registered in the agent's name;
- (f) ready mixed concrete;

- (g) 24 1—primary forest or raw wood materials that are the products of the forest from which they are being carried;
- (h) goods carried by an operator of a commercial vehicle if the goods have been sold, bought, produced, transformed or repaired by, or have been lent, borrowed, given or leased by, the operator as an integral part of the operator's primary business which business is not the operation of public trucks;
- (i) goods in a bus being operated under the authority of an operating licence issued under the *Public Vehicles Act*; or
- (j) goods in a commercial vehicle within eighteen months after the implementation date, where the carriage would have been exempt under the *Public Commercial Vehicles Act*.
- (5) Subsection (1) does not apply to a holder of a certificate of intercorporate exemption or any affiliated corporation named in the certificate carrying goods owned by any of them pursuant to the certificate.
- (6) Subsection (1) does not apply to the holder of a trip permit operating the commercial vehicle specified therein in accordance with the permit.
- (7) Where goods are carried in a commercial vehicle that is not owned by the owner of the goods and compensation is received for the use of the vehicle other than in accordance with a lease of the vehicle, the goods shall be deemed to be carried for compensation.
- (8) Where an intermediary, such as a freight forwarder, based in Ontario arranges the transportation of goods of others for compensation, on a highway, destined beyond an urban municipality, except where the intermediary is acting on behalf of a consignor or consignee for a pre-arranged fixed fee for the services, the intermediary is operating a commercial vehicle to carry goods of others for compensation within the meaning of subsection (1).
- (9) Subsection (8) does not apply where the arranging of transportation on a highway is merely incidental to the primary business of an intermediary such as a customs brokerage or other business prescribed by regulation.

(10) Where goods are carried in a commercial vehicle that is leased by the owner of the goods but the lessor of the vehicle, directly or indirectly, Idem

- (a) engages or pays the driver of the vehicle;
- (b) exercises control over the driver of the vehicle in the course of his employment as driver; or
- (c) assumes responsibility for the goods,

the goods shall be deemed to be carried for compensation.

(11) For the purpose of this section, "lease" means a written agreement setting out fully and accurately all provisions under which the vehicle is leased and giving the lessee exclusive possession and control over the vehicle throughout the entire term of the agreement. Definition,
lease

(12) Every person who contravenes subsection (1) is guilty of an offence and, Offence

- (a) on the first conviction, is liable to a fine of not less than \$250 and not more than \$5,000; and
- (b) on each subsequent conviction, is liable to a fine of not less than \$500 and not more than \$5,000.

(13) For the purposes of subsection (12), a conviction that occurs more than five years after a previous conviction is not a subsequent conviction. Idem

4.—(1) Operating licences shall be issued by the Registrar in accordance with this Act and the regulations. Registrar to
issue licences

(2) The Registrar may issue an operating licence containing a class of operating authority that is, Special
licences

- (a) a single-source authority authorizing the licensee to provide,
 - (i) commercial vehicles of which the licensee is the owner or lessee, and
 - (ii) drivers for the vehicles referred to in sub-clause (i),

under one or more contracts; or

(b) an owner-driver authority authorizing the licensee to provide,

(i) one commercial vehicle of which the licensee is the owner or lessee, and

(ii) a driver for the vehicle referred to in subclause (i),

under one contract at any given time.

Limit on
authorities

(3) No person shall hold,

(a) more than one owner-driver authority at the same time; or

(b) an owner-driver authority and a single-source authority other than a single-source authority granted under section 8.

Special
authority

(4) The Registrar, where it is in the public interest to do so, may grant a special authority to any licensee which, for the purpose of subsection 3 (1), shall be deemed to be part of that licensee's operating licence, subject to the conditions set out in the special authority, for seven days or such shorter time as is set out in the special authority.

Subject to
limitations

(5) When granting an operating authority, when there has been a public interest test hearing conducted by the Board wherein the issue of provincial interest has been raised under subsection 9 (5), the Registrar shall make the authority subject to such provisions and limitations as are recommended by the Board, but in no other circumstances may the Registrar make an authority subject to provisions and limitations other than as prescribed.

Exception

(6) Provisions or limitations imposed under subsection (5) shall not serve to limit the number of commercial vehicles operated under an operating authority except where the authority is,

(a) a single-source authority;

(b) an owner-driver authority;

(c) granted after a hearing conducting a public interest test; or

(d) for the carriage of road construction materials,

and shall not be inconsistent with any provision in this Act or the regulations.

(7) The Registrar,

Vehicle
certificates
limiting
number of
vehicles

(a) when granting an operating authority limiting the number of vehicles that may be operated under the authority; or

(b) with respect to the holder of an operating authority for carriage of road construction materials issued under the *Public Commercial Vehicles Act*,

R.S.O. 1980,
c. 407

shall issue vehicle certificates in a number not exceeding the number of vehicles permitted to be operated under the authority.

(8) No holder of a single-source authority or an owner-driver authority shall have more commercial vehicles under contract at any time than the number of vehicle certificates held under the authority.

Limit on
vehicles
under
contract

(9) A vehicle certificate shall state the relevant operating authority.

Vehicle
certificate

(10) An operating licence may be issued to expire,

Expiry

(a) at the end of a specified term;

(b) upon a specified day; or

(c) upon the occurrence of a specified event.

(11) Where the name or address of a holder of an operating licence changes from that set out in the application for the licence or a previous notice of change, the holder shall file, with the Registrar, a notice of the change within fifteen days after the change.

Notice of
change

(12) Every licensee who does not maintain a place of business in Ontario shall designate and maintain a person resident in Ontario as an agent of the licensee for the purposes of this Act and to accept service for and on behalf of the licensee.

Ontario
agent

(13) For the purpose of subsection (2), a "contract" means a contract, for a period of at least thirty consecutive days, that gives the licensee the right to carry goods of the other party to the contract, which goods are under the control of the other party, and prohibits the licensee from using the vehicle specified in the contract from carrying goods on the licensee's

Definition,
contract

behalf or for a person who is not the other party to the contract.

Compliance
with 1986,
c. 1 (Can.),
1976-77,
c. 52 (Can.)

(14) It is a condition of every operating licence that neither the holder thereof nor the driver of a public truck operated thereunder is in contravention of the *Customs Act* (Canada) and the *Immigration Act, 1976* (Canada) and the regulations made thereunder.

Idem

(15) The driver of a commercial motor vehicle registered in a jurisdiction other than a province or territory of Canada and operated under the authority of an operating licence shall carry documents indicating compliance with subsection (14), and subsection 22 (2) applies to such documents.

Licence not
transferable

5.—(1) Operating licences and operating authorities are not transferable.

Death

(2) Where a licensee, who is an individual, dies, the executor or administrator of the estate of the deceased may carry on the business of the deceased in accordance with the operating licence for not more than six months after the death.

Change in
control of
corporation

(3) The directors of a corporate licensee shall report forthwith to the Registrar,

(a) every issue or transfer of shares of its capital stock or change in beneficial ownership thereof; or

(b) an amalgamation,

that may affect control of the operations of the corporation.

Where
licensee does
not control
business

(4) Every licensee shall report to the Registrar any arrangement whereby any part of the transportation service authorized is controlled in any way by a person other than the licensee.

Exception to
subs. (4)

(5) The report referred to in subsection (4) is not required where the arrangement is a contract of the nature referred to in subsection 4 (2).

Requirements
for licence

6.—(1) An operating licence shall not be issued or an operating authority granted unless the applicant demonstrates fitness to carry on the business of carrying goods for compensation as described in the application for the licence.

Idem

(2) An application for an operating licence may not be accepted by the Ministry from an applicant who does not hold

a certificate of competency or whose application is not co-signed by an employee who holds such a certificate.

(3) Every applicant for an operating licence shall file with the Registrar, with respect to the business for which authority is sought, a description of the proposed transportation service and evidence that the applicant, Idem

(a) is not an undischarged bankrupt;

(b) is insurable; and

(c) holds a Commercial Vehicle Operator's Registration Certificate issued under the *Highway Traffic Act* that is not under suspension or subject to a fleet limitation. R.S.O. 1980,
c. 198

(4) In determining the fitness of an applicant, the Registrar shall consider, Matters to be
considered

(a) the past conduct of the applicant and, where the applicant is a corporation, of its officers as disclosed by the record of convictions available to the Registrar under this Act and the *Highway Traffic Act*, *Public Commercial Vehicles Act*, *Motor Vehicle Transport Act* (Canada), *Compulsory Automobile Insurance Act*, *Environmental Protection Act*, *Employment Standards Act*, *Fuel Tax Act*, 1981, *Dangerous Goods Transportation Act*, 1981, *Criminal Code* (Canada), *Canada Labour Code*, *Transportation of Dangerous Goods Act* (Canada), and the regulations thereunder and such other statutes as may be prescribed, and comparable statutes and regulations of other jurisdictions that afford reasonable grounds for belief that the transportation service will not be operated in accordance with the law and the public interest; and R.S.O. 1980,
cc. 198, 407,
83, 141, 137

1981, cc. 59,
69

R.S.C. 1970,
cc. M-14,
C-34, L-1

(b) such other matters as are prescribed.

(5) Subsection (2) does not apply where the application is for an operating licence to carry goods of a nature and on a scale that had been exempt under the *Public Commercial Vehicles Act* and the applicant was engaged in the transportation during the six months immediately preceding the date of the application. Exception

7.—(1) On being satisfied of the fitness of an applicant to hold a licence, the Registrar shall give thirty days notice of the Notice of
intention to
issue licence

intention to issue an operating licence to the applicant by publication in *The Ontario Gazette*.

Notice of
intention to
refuse

(2) Where the Registrar finds that an applicant is not fit to hold an operating licence, the Registrar shall give the applicant written notice thereof with reasons, and the applicant may, within thirty days after receiving the notice, appeal the decision to the Licence Suspension Appeal Board as defined in the *Highway Traffic Act*.

R.S.O. 1980,
c. 198

Idem

(3) After a hearing, the Licence Suspension Appeal Board as defined in the *Highway Traffic Act* may amend or confirm the decision of the Registrar.

Hearing

(4) Any person may, within the thirty-day period referred to in subsection (1), file with the Registrar a written request that,

(a) where there is an allegation that false information was given to the Registrar by the applicant, the Registrar hold a hearing to determine the fitness of an applicant; or

(b) the Board hold a hearing to conduct a public interest test,

and file evidence of service of a copy of the request on the applicant.

Idem

(5) Where a request is made under clause (4) (a) that the Registrar, in his or her absolute discretion, does not consider merely frivolous or vexatious, the Registrar shall hold the hearing requested, which hearing shall be limited to the allegation that false information was given.

Reassessing
fitness

(6) Where the Registrar finds, after a hearing under subsection (5), that false information was given, the Registrar shall reassess the question of the applicant's fitness to hold a licence.

Issue of
licence

(7) Where subsection (8) does not apply and no request is made under clause (4) (b), and the Registrar continues to be satisfied that the applicant is fit to hold the licence, the Registrar shall issue the licence applied for.

At Minister's
direction

(8) The Minister may direct the Board to hold a public interest test and, where the Minister so directs, the Board shall hold the hearing.

(9) Where a request is made under clause (4) (b), the Board shall, subject to section 9, hold the hearing requested. Idem,
by Board

(10) A hearing to conduct a public interest test shall not be held until a final determination has been made that the fitness of the applicant has been demonstrated. Determine
fitness first

(11) The requirement to hold a hearing to conduct a public interest test does not apply where the application is for an owner-driver authority or an operating authority to carry, Exception

- (a) waste or scrap being 40 29—miscellaneous waste or scrap;
- (b) farm products being 01 1—field crops, 01 2—fresh fruits or tree nuts, 01 3—fresh vegetables, 01 91—horticultural specialties and 01 99—farm products, not elsewhere classified in STCC;
- (c) prepared feed being 20 421—prepared feed, animal, fish or poultry, other than dog, cat or other pet food not elsewhere classified, except chopped, ground or pulverized hay, straw or related products, 20 423—canned feed, animal, fish or poultry, other than dog, cat or other pet food;
- (d) peat being 14 917—peat, natural, except ground or otherwise treated;
- (e) fresh fish being 09 1—fresh fish or other marine products not processed;
- (f) buildings or structures being 24 33—prefabricated wooden buildings or panels or sections;
- (g) newspapers and periodicals being 27 11—news-papers and 27 211—periodicals;
- (h) borate and potash being 14 713—borate, potash or soda, crude except ground or otherwise treated;
- (i) ores and concentrates being 10—metallic ores; or
- (j) petroleum crude being 13 111—crude petroleum and 29 113 15—distillate fuel oil.

(12) The requirement to hold a hearing to conduct a public interest test does not apply where the applicant holds an operating licence issued under the *Public Commercial Vehicles Act* after the 20th day of June, 1983 and the authority applied for Idem
R.S.O. 1980,
c. 407

does not exceed that which would be contained in that licence if it had been issued pursuant to a rewritten certificate under section 10b of the *Public Commercial Vehicles Act*.

R.S.O. 1980,
c. 407

Stay of
licence

(13) Where a request for a hearing is made in respect of an application, the operating authority applied for shall not be granted until the hearing is completed or there has been a final disposition of the rejection of the request.

Application
of cl. (4) (b)
and subs. (8)

(14) Clause (4) (b) and subsection (8) cease to apply five years after coming into force.

Temporary
licence

8. Where the Registrar is satisfied that the circumstances warrant it and that it is in the public interest to do so, the Registrar may, despite subsections 6 (1) and 7 (13), issue an operating licence or grant an operating authority that is valid for not more than twelve months.

Public
interest test

9.—(1) A hearing to conduct a public interest test pursuant to a request under clause 7 (4) (b) shall be held only if the person who asked for the test makes out a written case to the Board that,

(a) the granting of the operating authority applied for would be likely to have a significant detrimental effect on the public interest using the criteria set out in subsection 10 (1); and

(b) the request is not frivolously made.

Idem

(2) A hearing to conduct a public interest test pursuant to the direction of the Minister shall be held only after the Minister has published, in *The Ontario Gazette*, the reasons for wanting the hearing.

Burden of
proof

(3) In a hearing where a public interest test is conducted, the burden of proof is,

(a) where the hearing is initiated by the Minister, on the applicant for the operating authority; or

(b) where the hearing is as a result of a request under clause 7 (4) (b), on the person making the request.

Notice to
Minister

(4) Before holding a hearing under this section, the Board shall give the Minister fifteen days notice thereof.

Provincial
interest

(5) If the Minister is of the opinion that the subject-matter of a hearing of which the Minister receives notice is or is likely to be a matter of provincial interest, the Minister shall

so advise the Board in writing together with the reasons before the day fixed by the Board for the hearing and, where that is done, may direct the Board,

- (a) to postpone the hearing until thirty days after the day fixed; or
- (b) to examine and investigate such matters relating to transportation policy as are referred to it by the Minister, to report thereon to the Minister and to postpone the hearing until thirty days after the date of the report.

(6) The Board, where it holds a hearing after it has been advised that the provincial interest may be involved, shall, as part of that hearing, consider and give effect to every policy statement issued by the Lieutenant Governor in Council related to the provincial interest identified.

Policy
statements

(7) Where the Lieutenant Governor in Council is of the opinion that the Board has failed to give effect to policy statements as required under subsection (6), the Lieutenant Governor in Council may give notice thereof with particulars to the Board within thirty days after the date of the decision of the Board and the Board shall review its decision and may amend its decision.

Review of
decision

(8) Where the Lieutenant Governor in Council is of the opinion that the Board has failed to give effect to policy statements in a review, the Lieutenant Governor in Council may give notice thereof to the Board within thirty days after the review and may substitute the decision of the Lieutenant Governor in Council for all or any part of the decision of the Board.

Substituting
decision

10.—(1) In a hearing to conduct a public interest test, the Board shall determine whether granting the operating authority applied for, as set out in the material filed under subsection 6 (3), would have a significant detrimental effect on the public interest in relation to the market proposed to be served by investigating whether there would be significant adverse impact on the following:

Matters
considered in
public
interest test

1. The existence of a dependable and viable trucking industry.
2. The availability of appropriate trucking services to shippers.

3. The ultimate Ontario consumers of goods and services.
4. Overall or net effect on employment within Ontario and the gross provincial product.
5. The public interest as set out by the Lieutenant Governor in Council in policy statements issued under section 37.

Board report

(2) Where, after a hearing to conduct a public interest test, the Board's decision is that granting the operating authority applied for would not likely have a significant detrimental effect on the public interest in the market proposed to be served, the Board shall so report to the Registrar and recommend that the Registrar grant the authority applied for.

Idem

(3) Where, after a hearing to conduct a public interest test, the Board's decision is that granting the operating authority applied for will likely have a significant detrimental effect on the public interest in the market proposed to be served, the Board shall so report to the Registrar and recommend that the Registrar,

- (a) grant the authority applied for subject to a limit on the number of commercial vehicles authorized to be operated thereunder in the first, second, third and fourth years following the issuing of the licence; or
- (b) where the issue of provincial interest has been raised under subsection 9 (5), issue an operating licence with provisions that vary from those applied for.

Issuing
licence

(4) Upon receiving a report under subsection (2) or (3), the Registrar shall issue a licence in the terms recommended by the Board.

Deferred
issuance

(5) The issue of any licence under subsection (4) may be delayed for up to six months after the Board's decision if the Board so recommends.

Certificate of
inter-
corporate
exemption

11.—(1) The Registrar shall issue a certificate of intercorporate exemption to every applicant therefor who is not precluded from receiving it by subsection (2).

Where not to
be issued

(2) A certificate of intercorporate exemption shall not be issued,

- (a) to a licensee; or

- (b) to a corporation that does not show on the application an affiliated corporation,

and shall not name therein an affiliated corporation that holds an operating licence.

(3) The Registrar may, in a certificate of intercorporate exemption, set out such conditions and limitations as the Registrar sees fit to govern the carriage of goods under the certificate. Conditions in certificate

(4) For the purpose of this Act, a corporation is an affiliate of another corporation if one of them is the subsidiary of the other, if both are subsidiaries of the same corporation or if each is controlled by the same individual or corporation. Affiliate

(5) For the purpose of subsection (4), a corporation is controlled by an individual corporation or group of corporations if, Control

- (a) voting securities of the corporation carrying more than 50 per cent of the votes for the election of director are held, otherwise than by way of security only, by or for the benefit of the other person or group of persons;

- (b) the votes carried by the securities referred to in clause (a) are entitled, if exercised, to elect all members of the board of directors of the corporation.

(6) For the purpose of subsection (4), a corporation is a subsidiary of another corporation if, Subsidiary

- (a) it is controlled by,

- (i) the other corporation,

- (ii) the other corporation and one or more corporations each of which is controlled by that other corporation, or

- (iii) two or more corporations each of which is controlled by the other corporation; or

- (b) it is a subsidiary of a corporation that is the other corporation's subsidiary.

Notification
of
change—re
inter-
corporate
exemption
Offence

12.—(1) Every holder of a certificate of intercorporate exemption shall notify the Registrar of any change in the facts set out in the certificate within thirty days after the change.

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$5,000.

Trip permit

13.—(1) Subject to subsection (3), the Registrar shall issue a trip permit to every applicant therefor.

Idem

(2) Every trip permit shall,

(a) specify the trip and vehicle, including drawn vehicles if any, for which it applies; and

(b) be subject to the conditions set out therein.

Limit of
three permits

(3) No more than three trip permits may be issued to one person within any twelve-month period.

Commercial
zones

14.—(1) The Minister may designate commercial zones and may vary the boundaries of a commercial zone but, where the Minister does so, it shall be done only in accordance with the recommendations of the Board.

Referral to
Board

(2) Where the Minister proposes to designate a commercial zone or to vary the boundaries of a commercial zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations.

Second
hearing

(3) The Minister may require the Board to hold a second public hearing in respect of all or any part of a proposal that has been reported on under subsection (2) and to again report thereon to the Minister with its recommendations.

Matter for
the Board to
consider

(4) In determining whether to recommend the designation of a commercial zone, the Board shall consider whether the public interest will be served thereby.

Public
interest

(5) In considering public interest, the Board shall take into account the impact on the users of for hire transportation services within the proposed zone and on the providers of the services.

Idem

(6) In considering the impact on the providers of services, the Board shall take into account the impact on those to whom this Act does not apply, who are operating exclusively

within the proposed zone and on licensees who would be affected thereby.

15.—(1) No person shall knowingly hire, directly or indirectly, or participate in an arrangement to hire a person to carry goods where the services would be carried out in contravention of subsection 3 (1). Prohibited service—
arranging

(2) No person shall,

Prohibited
service—
performing

(a) hold himself out as willing to; or

(b) undertake to,

arrange to carry goods where the service would be carried out in contravention of subsection 3 (1).

16.—(1) No licensee shall carry goods under the authority of an operating licence unless the licensee or an employee of the licensee holds a certificate of competency and, where the regulations so require, such greater number of employees as are indicated by the regulations hold a certificate of competency. Certificate of
competency
required

(2) In every situation where the regulations require more than one certificate holder, the licensee is permitted ninety days in which to effect compliance. Delayed
effect

(3) Every licensee, who ceases to meet the requirements referred to in subsection (1) because of the termination of employment of an employee who holds a certificate of competency, shall be deemed to meet the requirements for ninety days after the termination. Idem

(4) An employee holding a certificate of competency may be counted for one licensee only when determining whether the requirements of subsection (1) are met except where the licensees are affiliated corporations. Limited use
of certificate

(5) Every licensee shall notify the Registrar within fifteen days after a change in certificate holders whose employment is relied on to satisfy the requirements of subsection (1) of the change. Change in
certificate
holders

(6) Subsection (1) does not apply to an executor or administrator of an estate carrying on business in accordance with subsection 5 (2). Exception

(7) Every licensee who holds an operating licence restricted to the carriage of goods through Ontario, provided the goods Idem

are not picked up or dropped off in Ontario, is exempt from the application of subsection (1).

Idem

R.S.O. 1980,
c. 407

(8) Every licensee who holds an operating licence which was issued under the *Public Commercial Vehicles Act* is exempt from the application of subsection (1) with respect to the carriage of goods during the eighteen-month period starting on the implementation date.

Idem

(9) The holder of an operating licence issued pursuant to an application to which subsection 6 (5) applies is exempt from the application of subsection (1) with respect to the carriage of goods during the eighteen-month period starting on the implementation date.

Licence to be
carried

17.—(1) Every person driving a public truck on a highway shall carry or keep, in a readily accessible place in the vehicle, a copy of the operating licence under which the vehicle is being operated and shall surrender the copy for inspection upon the demand of an officer.

Certificate of
intercor-
porate
exemption to
be carried

(2) Every driver of a commercial vehicle that is being operated under a certificate of intercorporate exemption shall carry or keep in a readily accessible place in the vehicle,

(a) the certificate or a copy thereof; and

(b) a shipping document signed by the consignor of the goods carried showing the name of the consignor, the name and address of the consignee, the originating point and the destination of the shipment and the particulars of the goods comprising the shipment,

and shall surrender them for inspection on the demand of an officer.

Copy of
lease to be
carried

(3) Every driver of a commercial vehicle that is under lease or contract to the owner, consignor or consignee of the goods being carried shall carry at all times while carrying the goods on a highway a copy of the lease, contract or notice of contract and shall surrender it for inspection on the demand of an officer.

Trip permit
to be carried

(4) Every driver of a commercial vehicle that is being operated under the authority of a trip permit shall carry or keep the permit in a readily accessible place in the vehicle and shall surrender it for inspection on the demand of an officer.

(5) Every person operating a public truck under an operating authority that limits the number of commercial vehicles that may be operated thereunder shall carry in the vehicle a vehicle certificate issued pursuant to such operating authority and shall surrender it for inspection on the demand of an officer.

Where limit
on number
of vehicles

18.—(1) Except as otherwise provided in the regulations, every licensee shall publish, as prescribed, a tariff of tolls showing the rates and charges and the conditions of carriage for the carrying of goods to and from points in respect of which the carriage is provided or offered by the licensee.

Publishing
tariffs

(2) No licensee shall charge a toll other than that contained in a tariff that is in effect or impose conditions of carriage that are not contained in or imposed in accordance with the tariff.

Tolls

(3) Subsections (1) and (2) do not apply to a tariff or toll charged under a contract, of which there is written evidence, that is for a term,

Exception

(a) of less than fourteen days;

(b) of not less than six months and that provides for an ascertainable maximum quantity of goods to be transported at that toll; or

(c) other than as set out in clause (a) or (b) but has been approved by the Board.

(4) A tariff of tolls shall not come into effect until fifteen days after it has been published in the prescribed manner or, where the Board has waived the fifteen days notice, until it has been published in the prescribed manner.

Coming into
effect

(5) The Board, on the application of a licensee, may, in any particular situation, reduce or waive the fifteen days notice referred to in subsection (4) or approve the term of a contract for purposes of clause (3) (c).

Power of
Board

(6) This section does not apply to an intermediary referred to in subsection 3 (8).

Exception

19.—(1) Except as otherwise provided in the regulations, every licensee shall issue a bill of lading to the person delivering or releasing goods to the licensee for carriage for compensation.

Bill of lading

- Copy to be retained (2) A signed copy of every bill of lading issued under this Act shall be retained, as, where and for the time prescribed, by the consignor of the goods involved and by the issuer.
- Production of bill of lading (3) Except as otherwise provided in the regulations, every driver operating a public truck shall carry a copy of the bill of lading in respect of the goods being carried and shall surrender it for inspection on the demand of an officer.
- Copy of bill of lading to accompany all goods (4) Where a shipment of goods is carried on more than one vehicle, the licensee shall ensure that every part of the shipment is accompanied by a copy of the appropriate bill of lading.
- Way bill (5) For the purpose of subsections (3) and (4), a way bill, containing such information as is prescribed, may be substituted for the bill of lading.
- Exemption certificate (6) The Registrar may grant a bill of lading exemption in an operating authority to a licensee if the operating authority is within a prescribed class.
- Idem (7) Subsections (3) and (4) do not apply in situations where there is no bill of lading or way bill because its use is obviated through the existence of an exemption granted under this section.
- Access to records (8) Every person to whom a bill of lading exemption has been granted under subsection (6) shall make available to an officer of the Ministry, upon demand, access to the holder's records, whether in printed form or on film or the access is by electronic means or otherwise, and shall assist the officer in examining and extracting therefrom information that would, except for the exemption, be required to have been contained in a bill of lading or way bill.
- Insurance **20.** Every licensee shall carry such insurance or provide such bond as is prescribed and shall ensure evidence thereof is carried in every commercial vehicle operated by the licensee.
- Direction to stop **21.** Any officer may, for the purpose of an examination, direct, by signals or otherwise, the driver of any commercial vehicle driven on a highway to stop, and the driver upon being so directed shall stop the vehicle.
- Examination by officer **22.—**(1) Any officer may, at any time, examine any commercial vehicle, its contents and equipment for the purpose of ascertaining whether this Act, the *Highway Traffic Act* and the regulations under either Act are being complied with and

the person in control of the vehicle shall assist in the examination of it, its contents and equipment.

(2) Where a commercial vehicle examined under this section contains goods, the officer conducting the examination may require the person in charge of the vehicle to surrender all documents in the possession of that person or in the vehicle relating to the operation of the vehicle and to the carriage and ownership of the goods and to furnish all information within that person's knowledge relating to the details of the current trip and the ownership of the goods.

Surrender of documents

(3) Where an officer is of the opinion, on reasonable and probable grounds, that a commercial vehicle is being operated in contravention of subsection 3 (1), the officer may,

Seizure or detention

(a) direct the driver of the vehicle to drive the vehicle to such location as is reasonable in the circumstances and detain it at that location; and

(b) seize the permits and number plates for the vehicle,

until the vehicle is able to be operated in compliance with subsection 3 (1).

(4) Every driver who is directed under clause (3) (a) shall comply with the direction.

Duty on driver

(5) Every permit seized under subsection (3) shall be deemed to be under suspension for the purposes of section 33 of the *Highway Traffic Act* while it is in the custody of the officer seizing it.

Permit suspension
R.S.O. 1980,
c. 198

(6) Where permits and number plates have been seized or a commercial vehicle has been detained under subsection (3), the person entitled to possession of the vehicle may apply to the District Court for an order that the permits and plates be returned or the vehicle released, as the case may be, and upon a security being deposited with the Court in such amount not to exceed \$5,000, as determined by the Court, the order may be issued.

Order to release

(7) Every security deposited under subsection (6) shall be held until the final disposition of a charge laid in respect of the believed contravention that led to the seizure or detention or, where a charge is not laid within six months after the seizure or detention, the expiration of the six-month period, whichever first occurs.

Disposition of security

Idem

(8) Where there is a conviction in respect of a charge referred to in subsection (7), the security deposited shall be applied to pay the fine imposed.

Lien

(9) Where there is a conviction in respect of a charge referred to in subsection (7), all costs necessarily incurred in detaining and storing a vehicle under subsection (3) shall be a lien on the vehicle.

Examination
of records

23. An officer of the Ministry may examine all books, records and documents of,

- (a) a licensee or a holder of a trip permit relating to the business of operating public trucks; or
- (b) a holder of a certificate of intercorporate exemption or of an affiliated corporation named in the certificate relating to the transportation of goods for compensation,

for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and the officer may, for the purpose of the examination, upon producing his or her designation as an officer of the Ministry, enter at any reasonable time the business premises of the licensee, holder or affiliated corporation, as the case may be.

Investigation

24.—(1) Where the Minister believes, on reasonable and probable grounds, that any person has contravened a provision of this Act or the regulations, the Minister may appoint one or more persons to investigate whether the contravention has occurred and the person appointed shall report the results of the investigation to the Minister.

Powers of
investigator

(2) For purposes relevant to an investigation under this section, the investigator may inquire into and inspect the business affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his or her appointment, enter, at any reasonable time, the business premises of the person and inspect books, papers, documents and things relevant to the investigation; and
- (b) inquire into negotiations and transactions made by or on behalf of or in relation to the person relating to the transportation of goods or the use of public trucks or that are otherwise relevant to the investigation,

and for the purpose of the inquiry, the investigator has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

(3) No person shall obstruct an investigator in the course of an investigation under this section or withhold from an investigator or conceal or destroy any books, papers, documents or things relevant to the investigation.

No person
shall obstruct
investigator

(4) Where a justice of the peace is satisfied, upon an application without notice by an investigator acting under this section,

Application
to justice of
the peace

- (a) that the investigation has been ordered and that the applicant has been appointed to conduct it; and
- (b) that there are reasonable grounds for believing there are in a specified building, dwelling, receptacle or place, books, papers, documents or things relating to the investigation,

the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the investigator, together with such police officers as the investigator calls upon to assist, to enter and search, if necessary by reasonable force, the building, dwelling, receptacle or place for the books, papers, documents or things and to examine them.

(5) Every entry and search authorized under subsection (4) shall be made between sunrise and sunset unless the order authorizes the investigator to make the search at night.

Times of
entry

(6) The Minister may appoint an expert to assist in examining books, papers, documents or things examined under clause (2) (a) or subsection (4).

Expert
examination

25.—(1) Any person,

Copies

- (a) obtaining a document under section 22, may take the document for the purpose of making a copy of it; or
- (b) in the course of an investigation under section 23 or 24, upon giving a receipt therefor, may take anything that may be examined under that section for the purpose of making copies thereof,

but the copying shall be done as quickly as reasonably possible and the thing copied shall be promptly returned thereafter.

Idem

(2) Any copy made as provided in subsection (1) and certified to be a true copy by the person making the copy is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the original document and that the facts set out therein are true.

Cancellation
or
amendment
of certificate

26.—(1) The Registrar may amend a certificate of intercorporate exemption where a corporation named in the certificate is no longer affiliated to the holder of the certificate or, where the corporation named in the certificate is the only one so named and is no longer affiliated to the holder of the certificate, the Registrar may cancel the certificate.

Registrar
may suspend
or cancel
certificate

R.S.O. 1980,
c. 198

(2) The Registrar may suspend or cancel a certificate of intercorporate exemption where the holder thereof or any person under the control or direction of the holder or of an affiliated corporation named therein contravenes this Act or the regulations, the *Highway Traffic Act* or the regulations thereunder or the provisions of the certificate, and the contravention is such that there are grounds for believing that transportation services permitted by the certificate will not be carried on in accordance with the law.

Cancellation
of licence

27.—(1) The Registrar may cancel an operating licence,

- (a) in whole, where the licensee fails to provide any part of the transportation service for which the licensee is licensed for a continuous period of one year;
- (b) in part, where the licensee fails to provide transportation service in respect of that part for a continuous period of one year; or
- (c) in whole or in part at the request of the licensee.

Suspension
or cancel-
lation of
licence

(2) The Registrar may suspend or cancel an operating licence in whole or in part where,

- (a) the licensee or any person under the control or direction of the licensee contravenes this Act or the regulations, any Act referred to in clause 6 (4) (b) or the provisions of the licence and the contravention is such that there are reasonable grounds for believing that the transportation services permitted

by the licence will not be carried on in accordance with this Act or the regulations;

- (b) there has been misconduct or lack of integrity or honesty by the licensee in carrying on the transportation service;
- (c) the licensee is financially incapable of providing transportation services in accordance with this Act and the regulations or the provisions of the licence or of meeting the licensee's financial responsibilities to users of the services; or
- (d) the licensee holds an owner-driver or single-source authority and has been a party to a contract under the authority that has been cancelled in less than thirty days in circumstances that afford reasonable grounds for believing that the transportation service authorized by the authority will not be carried on in accordance with this Act and the regulations.

(3) The Registrar may cancel a bill of lading exemption of any holder of an operating licence who does not comply with subsection 19 (8) (access to records) or whose records do not disclose the information that is required in a bill of lading or way bill.

Cancellation
of bill of
lading
exemption
certificate

28.—(1) Where the Registrar proposes to suspend or cancel an operating licence, in whole or in part, to suspend, amend or cancel a certificate of intercorporate exemption or to cancel a bill of lading exemption, the Registrar shall serve notice of the proposal together with reasons therefor on the licensee or certificate holder.

Notice of
proposal to
cancel, etc.

(2) Every person who is served with a notice under subsection (1) and serves on the Registrar and the Board, within fifteen days after that person receives service of the notice, a request for a hearing, is entitled to a hearing by the Board in respect of the proposal.

Right to
hearing

(3) Where the Registrar does not receive a request for a hearing as provided in subsection (2), the Registrar may, on the expiration of the fifteen days referred to in subsection (2), carry out the proposal.

Where no
hearing
requested

(4) For the purpose of subsection (1), a notice that is mailed by prepaid post to the licensee or certificate holder at that person's address last known to the Registrar shall be deemed to have been served on the third day after the day of mailing.

Service

Extension of
time

(5) The Board, on application by a licensee or certificate holder, as the case may be, may extend the time for requesting a hearing, either before or after expiration of the fifteen-day period, and may give such directions as it considers proper consequent upon the extension.

Parties

(6) The Registrar, the licensee or certificate holder and such other persons as the Board may specify are parties to every hearing under this section.

Efforts to
comply

(7) In a hearing held under this section, the Board shall take into account, where appropriate, evidence as to the manner in which the licensee has carried on operations under the licence after receipt of notice of hearing and up to the hearing.

Opportunity
to examine
evidence

(8) The Registrar shall give any party to a hearing an opportunity to examine, before the hearing, all documentary evidence that will be introduced and all reports, the contents of which, will be given in evidence at the hearing.

Recommendations of
Board

(9) The Board shall, after a hearing under this section, make a report to the Registrar, setting out its findings of fact, conclusions of law and recommendations.

Decision
subsequent to
report

(10) The Registrar, on receiving and considering a report made under this section, may carry out the proposal to which it relates, fully or in a modified manner and, where he or she does so, shall give written reasons for the decision to the licensee or holder or, where the Registrar decides not to carry out the proposal, he or she shall so advise the licensee or certificate holder.

Refusing or
withdrawing
privileges

29.—(1) The Registrar may,

- (a) despite subsection 11 (1), refuse to issue a certificate of intercorporate exemption;
- (b) despite subsection 13 (1), refuse to issue a trip permit; or
- (c) suspend an operating licence,

where the applicant or holder is indebted to the Treasurer of the Province of Ontario in respect of a fee related to the issuance of a certificate, licence or permit.

No right to
hearing

(2) Subsections 28 (1) and (2) do not apply in respect of a licence suspended under clause (1) (c).

(3) Where a cheque tendered as payment for any fee or tax is dishonoured, interest may be charged on the amount of the cheque and a penalty and administrative fee may be imposed.

Dishonoured
cheques

(4) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the payment of administrative fees for reinstating suspended operating licences;
- (b) providing for the payment of administrative fees for handling dishonoured cheques;
- (c) prescribing for the purpose of subsection (3), the rate of interest, when interest starts to run and the method of calculating the amount of interest;
- (d) prescribing penalties for the purposes of subsection (3) and the method of determining the amount of any penalty.

30.—(1) The Registrar may at any time refer an operating licence to the Board where, in the opinion of the Registrar, any part is ambiguous or the rights granted by the licence are uncertain and the Board shall, after a hearing, report to the Registrar and may recommend that the licence be amended to resolve any ambiguity or uncertainty.

Referral to
Board where
uncertainty

(2) Upon receipt of a report under subsection (1) that recommends a licence be amended, the Registrar shall issue an amended operating licence in the form recommended by the Board.

Issue of
clarified
licence

31. Every person employed in the administration of this Act, including an investigator under section 24, shall preserve confidentiality with respect to all matters that come to his or her knowledge in the course of that person's duties or employment and shall not communicate any such matter to any other person except,

Confiden-
tiality

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations or of the *Motor Vehicle Transport Act* (Canada);
- (b) to his or her counsel; or
- (c) with the consent of the person to whom the information relates.

R.S.C. 1970,
c. M-14

Cancellation
of licence by
Registrar

32. Where the Registrar receives a report under subsection 5 (3) or (4) or information that leads the Registrar to conclude that a report should have been made under subsection 5 (3) or (4), the Registrar shall refer the report or the information to the Board and the Board shall hold a hearing to determine whether persons different from those indicated at the time of the application for the licence are in actual control of the transportation service authorized by the licence and, where that is the case, the Registrar shall cancel the operating licence.

Penalty

33.—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided, is liable to a fine of not less than \$150 and not more than \$1,500.

Idem

(2) Every person who knowingly makes a false statement in an application, declaration, affidavit or document required under this Act or the regulations or by the Board is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Licensee
vicariously
liable

34. Any licensee may be charged with and convicted of an offence under this Act or the regulations for which the driver of the licensee's public truck is subject to be charged and on conviction, the licensee is liable to the penalty provided for the offence.

Consent to
prosecute

35. No prosecution shall be instituted under this Act without the prior consent of an officer.

Advisory
Committee
on Truck
Transportation

36.—(1) There shall be a committee to be known as the Advisory Committee on Truck Transportation composed of not fewer than twelve and not more than twenty members.

Members

(2) The Minister shall appoint the members of the Committee for such terms as the Minister determines and in making the appointments shall include representatives of the Ministry, the Board, shippers and carriers.

Chairman
and vice-
chairman

(3) The Minister shall designate a chairman and a vice-chairman from among the members appointed.

Vacancies

(4) The Minister may fill any vacancy that occurs in the membership of the Committee.

Function of
Committee

(5) The function of the Committee is to advise and make recommendations to the Minister on,

- (a) the effectiveness of this Act and its administration by the Ministry and the Board in relation to the objectives set out in section 2;
- (b) any matter concerning the transportation of goods in commercial vehicles; and
- (c) the degree to which the public interest test is necessary to advance the objectives of section 2.

37.—(1) The Lieutenant Governor in Council may issue policy statements setting out matters to be considered by the Board when determining questions of public interest and the Board shall take the statements into consideration together with such other matters as the Board considers appropriate.

Policy
statements

(2) Every policy statement made under subsection (1) shall be published in *The Ontario Gazette*.

Publication

38.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation policy as the Minister specifies and the Board shall report thereon to the Minister.

Ministerial
directions to
investigate

(2) For the purposes of subsection (1), the Board may hold such hearings as it considers necessary.

Hearings

39. Section 22 of the *Ontario Highway Transport Board Act* does not apply to an order or decision of the Board under this Act.

Non-appli-
cation of
R.S.O. 1980,
c. 338

40.—(1) Every operating licence issued to a licensee under the *Public Commercial Vehicles Act* or this Act is cancelled upon the issuance of a new licence under this Act to the same licensee.

One valid
licence only
R.S.O. 1980,
c. 407

(2) An amended licence constitutes a new licence, as amended, for the purpose of subsection (1).

Amending
licence

41.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

1. prescribing classes of licences, licensees and authorities;
2. prescribing fees and the basis for computing fees and providing for the payment thereof;

3. prescribing conditions and limitations to which licences, authorities, permits and certificates of intercorporate exemptions shall be subject;
4. prescribing the contents of and the information to be contained in bills of lading and prescribing different contents and information for bills of lading issued by various classes of licensees;
5. prescribing the form, amount, nature, class, provisions and conditions of insurance policies and bonds that shall be provided and carried by licensees;
6. respecting the form and content of tariffs and tolls, including conditions of carriage, the publication thereof and the payment of tolls;
7. prescribing forms, including the contents thereof and information to be contained therein, and providing for their use and the filing thereof;
8. prescribing, regulating and limiting the hours of labour of drivers of public trucks;
9. prescribing the qualifications of drivers of public trucks and prohibiting persons who do not meet the qualifications from driving public trucks;
10. prescribing equipment to be carried by public trucks and the condition and location in which the equipment shall be kept;
11. prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed by licensees and providing for the filing thereof;
12. prescribing criteria to be taken into account in determining the fitness of applicants for operating authorities and licences;
13. prescribing and providing for the information to be marked on articles covered by a bill of lading issued by licensees and exempting any class of licensees from any provision so prescribed or provided;
14. prescribing conditions that shall be deemed to be a part of every contract or a class of contract for the carriage of goods for compensation to which this Act applies;

15. prescribing classes of operating authorities for the purposes of subsection 7 (11);
16. exempting any class of licensees or drivers of any class of public truck from the application of sections 18 and 19 and prescribing conditions to which any exemption is subject;
17. prescribing classes of operating authorities for the purposes of subsection 19 (6) and conditions that apply to holders of operating authorities who carry goods under a bill of lading exemption;
18. governing the issue and renewal of operating licences;
19. prescribing the qualifications of applicants for and holders of operating authorities and operating licences;
20. governing the issue and renewal of certificates of intercorporate exemption and prescribing terms to which the certificates shall be subject;
21. establishing certificate of competency training programs including the prescribing of training courses, courses of study, methods of training, qualifications for certification, fixing credits to be allowed for courses, the administration of the program, providing for the granting of certificates and the recognition of previous experience;
22. prescribing classes of public trucking undertakings and the number, location and scope of duties of holders of certificates of competency required to be employed therein;
23. prescribing the contents of documents and financial statements and providing for their filing with the Registrar or the Board;
24. prescribing the period of time for which certificates of intercorporate exemption are valid and providing for the renewal thereof;
25. prescribing the method of determining the number of employees required to hold a certificate of competency and providing for different calculations based on the type of venture carried on;

26. designating certificates or documents that shall, on designation, be deemed to be a certificate of competency issued under this Act;
27. providing for the delegation to an officer of the Ministry of such of the powers and duties of the Registrar as may be considered necessary;
28. respecting any matter or thing that is required or permitted to be prescribed under this Act.

Idem (2) Any regulation may be general or particular in its application.

Adoption of codes, etc. (3) Any regulation may adopt by reference in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, standard or specification, and may require compliance with any code, standard or specification that is so adopted.

Transition R.S.O. 1980, c. 407 **42.**—(1) An operating licence issued pursuant to a certificate of public necessity and convenience under section 10b of the *Public Commercial Vehicles Act* shall be deemed to be an operating licence for the purpose of this Act.

Idem (2) An operating licence or a freight forwarder's licence issued under the *Public Commercial Vehicles Act*, other than a licence referred to in subsection (1), shall be deemed to be an operating licence for the purpose of this Act during the eighteen-month period starting on the implementation date unless cancelled sooner by the operation of section 40.

Idem (3) A certificate of intercorporate exemption issued under section 4a of the *Public Commercial Vehicles Act* shall be deemed to be a certificate of intercorporate exemption for the purpose of this Act.

Limitation re R.S.O. 1980, c. 407, subs. 6 (1) (4) Subsection 6 (1) of the *Public Commercial Vehicles Act* does not apply where the application for the licence is made after the implementation date.

43.—(1) Section 2, sections 4a and 4b, as enacted by the Statutes of Ontario, 1981, chapter 71, section 3, subsection 6 (3), sections 9, 13, 18 to 22, sections 24 to 26, section 27, as amended by the Statutes of Ontario, 1981, chapter 71, section 10, and sections 27 to 30 of the *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, are repealed.

(2) The *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, the *Public Commercial Vehicles Amendment Act, 1981*, being chapter 71, the *Public Commercial Vehicles Amendment Act, 1983*, being chapter 79, the *Public Commercial Vehicles Amendment Act, 1984*, being chapter 20 and the *Public Commercial Vehicles Amendment Act, 1986*, being chapter 11, are repealed eighteen months after the implementation date.

44. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

45. The short title of this Act is the *Truck Transportation Act, 1988*. Short title

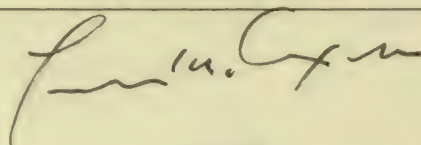
Bill 90

(Chapter 45
Statutes of Ontario, 1988)

**An Act respecting the
United Nations Convention
on Contracts
for the
International
Sale of Goods**

The Hon. I. Scott
Attorney General

1st Reading December 21st, 1987
2nd Reading June 27th, 1988
3rd Reading June 29th, 1988
Royal Assent June 29th, 1988

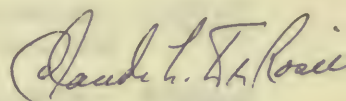


Projet de loi 90

(Chapitre 45
Lois de l'Ontario de 1988)

**Loi concernant la
Convention des Nations
Unies sur les
contrats de vente
internationale de
marchandises**

L'honorable I. Scott
procureur général



CLERK
LEGISLATIVE ASSEMBLY

1^{re} lecture 21 décembre 1987
2^e lecture 27 juin 1988
3^e lecture 29 juin 1988
sanction royale 29 juin 1988

Bill 90**1987**

**An Act respecting the United Nations Convention
on Contracts for the
International Sale of Goods**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definition
"Conven-
tion"

1. In this Act, "Convention" means the United Nations Convention on Contracts for the International Sale of Goods set out in the Schedule.

Declaration
of
Government
of Canada

2. The Attorney General shall request the Government of Canada to declare in accordance with article 93 of the Convention that the Convention extends to Ontario.

Convention
in force

3. On the date the Convention comes into force in Canada in accordance with article 99 of the Convention, the Convention comes into force in Ontario.

Publication

4. The Attorney General shall cause to be published in *The Ontario Gazette* the date the Convention comes into force in Ontario.

This Act
prevails

5. Where there is a conflict between this Act and any other enactment, this Act prevails.

Exclusion of
Convention

6. Parties to a contract to which the Convention would otherwise apply may exclude its application by expressly providing in the contract that the local domestic law of Ontario or another jurisdiction applies to it or that the Convention does not apply to it.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *International Sale of Goods Act, 1988*.

Projet de loi 90**1987****Loi concernant la Convention des Nations
Unies sur les contrats de vente
internationale de marchandises**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Dans la présente loi, «Convention» s'entend de la Convention des Nations Unies sur les contrats de vente internationale de marchandises, dont le texte est reproduit à l'annexe.

Définition
«Convention»

2 Le procureur général demande au gouvernement du Canada de déclarer, en conformité avec l'article 93 de la Convention, que celle-ci s'applique à l'Ontario.

Déclaration
du
gouvernement
du Canada

3 À la date d'entrée en vigueur de la Convention au Canada, en conformité avec son article 99, celle-ci entre en vigueur en Ontario.

Convention en
vigueur

4 Le procureur général fait publier dans la *Gazette de l'Ontario* la date d'entrée en vigueur de la Convention en Ontario.

Publication

5 La présente loi l'emporte sur tout autre texte législatif incompatible.

La présente
loi l'emporte

6 Les parties à un contrat auquel s'appliquerait la Convention peuvent exclure son application en prévoyant expressément dans le contrat que le droit interne local de l'Ontario ou d'un autre ressort s'y applique ou que la Convention ne s'y applique pas.

Exclusion de
la Convention

7 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

8 Le titre abrégé de la présente loi est *Loi de 1988 sur la vente internationale de marchandises*.

Titre abrégé

SCHEDULE

UNITED NATIONS CONVENTION ON CONTRACTS FOR THE
INTERNATIONAL SALE OF GOODS

THE STATES PARTIES TO THIS CONVENTION,

BEARING IN MIND the broad objectives in the resolutions adopted by the sixth special session of the General Assembly of the United Nations on the establishment of a New International Economic Order,

CONSIDERING that the development of international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

BEING OF THE OPINION that the adoption of uniform rules which govern contracts for the international sale of goods and take into account the different social, economic and legal systems would contribute to the removal of legal barriers in international trade and promote the development of international trade,

HAVE AGREED as follows:

PART I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

CHAPTER I

SPHERE OF APPLICATION

Article 1

(1) This Convention applies to contracts of sale of goods between parties whose places of business are in different States:

- (a) when the States are Contracting States; or
- (b) when the rules of private international law lead to the application of the law of a Contracting State.

(2) The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract.

(3) Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

Article 2

This Convention does not apply to sales:

ANNEXE

CONVENTION DES NATIONS UNIES SUR LES CONTRATS DE
VENTE INTERNATIONALE DE MARCHANDISES

LES ÉTATS PARTIES À LA PRÉSENTE CONVENTION,

AYANT PRÉSENTS À L'ESPRIT les objectifs généraux inscrits dans les résolutions relatives à l'instauration d'un nouvel ordre économique international que l'Assemblée générale a adoptées à sa sixième session extraordinaire,

CONSIDÉRANT que le développement du commerce international sur la base de l'égalité et des avantages mutuels est un élément important dans la promotion de relations amicales entre les États,

ESTIMANT que l'adoption de règles uniformes applicables aux contrats de vente internationale de marchandises et compatibles avec les différents systèmes sociaux, économiques et juridiques contribuera à l'élimination des obstacles juridiques aux échanges internationaux et favorisera le développement du commerce international,

SONT CONVENUS de ce qui suit :

PREMIÈRE PARTIE

CHAMP D'APPLICATION ET DISPOSITIONS GÉNÉRALES

CHAPITRE I

CHAMP D'APPLICATION

Article Premier

1) La présente Convention s'applique aux contrats de vente de marchandises entre des parties ayant leur établissement dans des États différents :

- a) lorsque ces États sont des États contractants; ou
- b) lorsque les règles du droit international privé mènent à l'application de la loi d'un État contractant.

2) Il n'est pas tenu compte du fait que les parties ont leur établissement dans des États différents lorsque ce fait ne ressort ni du contrat, ni de transactions antérieures entre les parties, ni de renseignements donnés par elles à un moment quelconque avant la conclusion ou lors de la conclusion du contrat.

3) Ni la nationalité des parties ni le caractère civil ou commercial des parties ou du contrat ne sont pris en considération pour l'application de la présente Convention.

Article 2

La présente Convention ne régit pas les ventes :

- (a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;
- (b) by auction;
- (c) on execution or otherwise by authority of law;
- (d) of stocks, shares, investment securities, negotiable instruments or money;
- (e) of ships, vessels, hovercraft or aircraft;
- (f) of electricity.

Article 3

(1) Contracts for the supply of goods to be manufactured or produced are to be considered sales unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

(2) This Convention does not apply to contracts in which the preponderant part of the obligations of the party who furnishes the goods consists in the supply of labour or other services.

Article 4

This Convention governs only the formation of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract. In particular, except as otherwise expressly provided in this Convention, it is not concerned with:

- (a) the validity of the contract or of any of its provisions or of any usage;
- (b) the effect which the contract may have on the property in the goods sold.

Article 5

This Convention does not apply to the liability of the seller for death or personal injury caused by the goods to any person.

Article 6

The parties may exclude the application of this Convention or, subject to article 12, derogate from or vary the effect of any of its provisions.

- a) de marchandises achetées pour un usage personnel, familial ou domestique, à moins que le vendeur, à un moment quelconque avant la conclusion ou lors de la conclusion du contrat, n'ait pas su et n'ait pas été censé savoir que ces marchandises étaient achetées pour un tel usage;
- b) aux enchères;
- c) sur saisie ou de quelque autre manière par autorité de justice;
- d) de valeurs mobilières, effets de commerce et monnaies;
- e) de navires, bateaux, aéroglisseurs et aéronefs;
- f) d'électricité.

Article 3

1) Sont réputés ventes les contrats de fourniture de marchandises à fabriquer ou à produire, à moins que la partie qui commande celles-ci n'ait à fournir une part essentielle des éléments matériels nécessaires à cette fabrication ou production.

2) La présente Convention ne s'applique pas aux contrats dans lesquels la part prépondérante de l'obligation de la partie qui fournit les marchandises consiste en une fourniture de main-d'oeuvre ou d'autres services.

Article 4

La présente Convention régit exclusivement la formation du contrat de vente et les droits et obligations qu'un tel contrat fait naître entre le vendeur et l'acheteur. En particulier, sauf disposition contraire expresse de la présente Convention, celle-ci ne concerne pas :

- a) la validité du contrat ni celle d'aucune de ses clauses non plus que celle des usages;
- b) les effets que le contrat peut avoir sur la propriété des marchandises vendues.

Article 5

La présente Convention ne s'applique pas à la responsabilité du vendeur pour décès ou lésions corporelles causés à quiconque par les marchandises.

Article 6

Les parties peuvent exclure l'application de la présente Convention ou, sous réserve des dispositions de l'article 12, déroger à l'une quelconque de ses dispositions ou en modifier les effets.

CHAPTER II

GENERAL PROVISIONS

Article 7

(1) In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

(2) Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

Article 8

(1) For the purposes of this Convention statements made by and other conduct of a party are to be interpreted according to his intent where the other party knew or could not have been unaware what that intent was.

(2) If the preceding paragraph is not applicable, statements made by and other conduct of a party are to be interpreted according to the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances.

(3) In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations, any practices which the parties have established between themselves, usages and any subsequent conduct of the parties.

Article 9

(1) The parties are bound by any usage to which they have agreed and by any practices which they have established between themselves.

(2) The parties are considered, unless otherwise agreed, to have impliedly made applicable to their contract or its formation a usage of which the parties knew or ought to have known and which in international trade is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade concerned.

Article 10

For the purposes of this Convention:

- (a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract;
- (b) if a party does not have a place of business, reference is to be made to his habitual residence.

*CHAPITRE II**DISPOSITIONS GÉNÉRALES**Article 7*

1) Pour l'interprétation de la présente Convention, il sera tenu compte de son caractère international et de la nécessité de promouvoir l'uniformité de son application ainsi que d'assurer le respect de la bonne foi dans le commerce international.

2) Les questions concernant les matières régies par la présente Convention et qui ne sont pas expressément tranchées par elle seront réglées selon les principes généraux dont elle s'inspire ou, à défaut de ces principes, conformément à la loi applicable en vertu des règles du droit international privé. *

Article 8

1) Aux fins de la présente Convention, les indications et les autres comportements d'une partie doivent être interprétés selon l'intention de celle-ci lorsque l'autre partie connaissait ou ne pouvait ignorer cette intention.

2) Si le paragraphe précédent n'est pas applicable, les indications et autres comportements d'une partie doivent être interprétés selon le sens qu'une personne raisonnable de même qualité que l'autre partie, placée dans la même situation, leur aurait donné.

3) Pour déterminer l'intention d'une partie ou ce qu'aurait compris une personne raisonnable, il doit être tenu compte des circonstances pertinentes, notamment des négociations qui ont pu avoir lieu entre les parties, des habitudes qui se sont établies entre elles, des usages et de tout comportement ultérieur des parties.

Article 9

1) Les parties sont liées par les usages auxquels elles ont consenti et par les habitudes qui se sont établies entre elles.

2) Sauf convention contraire des parties, celles-ci sont réputées s'être tacitement référées dans le contrat et pour sa formation à tout usage dont elles avaient connaissance ou auraient dû avoir connaissance et qui, dans le commerce international, est largement connu et régulièrement observé par les parties à des contrats de même type dans la branche commerciale considérée.

Article 10

Aux fins de la présente Convention :

- a) si une partie a plus d'un établissement, l'établissement à prendre en considération est celui qui a la relation la plus étroite avec le contrat et son exécution eu égard aux circonstances connues des parties ou envisagées par elles à un moment quelconque avant la conclusion ou lors de la conclusion du contrat;
- b) si une partie n'a pas d'établissement, sa résidence habituelle en tient lieu.

Article 11

A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses.

Article 12

Any provision of article 11, article 29 or Part II of this Convention that allows a contract of sale or its modification or termination by agreement or any offer, acceptance or other indication of intention to be made in any form other than in writing does not apply where any party has his place of business in a Contracting State which has made a declaration under article 96 of this Convention. The parties may not derogate from or vary the effect of this article.

Article 13

For the purposes of this Convention "writing" includes telegram and telex.

PART II

FORMATION OF THE CONTRACT

Article 14

(1) A proposal for concluding a contract addressed to one or more specific persons constitutes an offer if it is sufficiently definite and indicates the intention of the offeror to be bound in case of acceptance. A proposal is sufficiently definite if it indicates the goods and expressly or implicitly fixes or makes provision for determining the quantity and the price.

(2) A proposal other than one addressed to one or more specific persons is to be considered merely as an invitation to make offers, unless the contrary is clearly indicated by the person making the proposal.

Article 15

(1) An offer becomes effective when it reaches the offeree.

(2) An offer, even if it is irrevocable, may be withdrawn if the withdrawal reaches the offeree before or at the same time as the offer.

Article 16

(1) Until a contract is concluded an offer may be revoked if the revocation reaches the offeree before he has dispatched an acceptance.

(2) However, an offer cannot be revoked:

(a) if it indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable; or

Article 11

Le contrat de vente n'a pas à être conclu ni constaté par écrit et n'est soumis à aucune autre condition de forme. Il peut être prouvé par tous moyens, y compris par témoins.

Article 12

Toute disposition de l'article 11, de l'article 29 ou de la deuxième partie de la présente Convention autorisant une forme autre que la forme écrite, soit pour la conclusion ou pour la modification ou la résiliation amiable d'un contrat de vente, soit pour toute offre, acceptation ou autre manifestation d'intention, ne s'applique pas dès lors qu'une des parties a son établissement dans un État contractant qui a fait une déclaration conformément à l'article 96 de la présente Convention. Les parties ne peuvent déroger au présent article ni en modifier les effets.

Article 13

Aux fins de la présente Convention, le terme «écrit» doit s'entendre également des communications adressées par télégramme ou par télex.

DEUXIÈME PARTIE

FORMATION DU CONTRAT

Article 14

1) Une proposition de conclure un contrat adressée à une ou plusieurs personnes déterminées constitue une offre si elle est suffisamment précise et si elle indique la volonté de son auteur d'être lié en cas d'acceptation. Une proposition est suffisamment précise lorsqu'elle désigne les marchandises et, expressément ou implicitement, fixe la quantité et le prix ou donne des indications permettant de les déterminer.

2) Une proposition adressée à des personnes indéterminées est considérée seulement comme une invitation à l'offre, à moins que la personne qui a fait la proposition n'ait clairement indiqué le contraire.

Article 15

1) Une offre prend effet lorsqu'elle parvient au destinataire.

2) Une offre, même si elle est irrévocable, peut être rétractée si la rétractation parvient au destinataire avant ou en même temps que l'offre.

Article 16

1) Jusqu'à ce qu'un contrat ait été conclu, une offre peut être révoquée si la révocation parvient au destinataire avant que celui-ci ait expédié une acceptation.

2) Cependant, une offre ne peut être révoquée :

- a) si elle indique, en fixant un délai déterminé pour l'acceptation, ou autrement, qu'elle est irrévocable; ou

- (b) if it was reasonable for the offeree to rely on the offer as being irrevocable and the offeree has acted in reliance on the offer.

Article 17

An offer, even if it is irrevocable, is terminated when a rejection reaches the offeror.

Article 18

(1) A statement made by or other conduct of the offeree indicating assent to an offer is an acceptance. Silence or inactivity does not in itself amount to acceptance.

(2) An acceptance of an offer becomes effective at the moment the indication of assent reaches the offeror. An acceptance is not effective if the indication of assent does not reach the offeror within the time he has fixed or, if no time is fixed, within a reasonable time, due account being taken of the circumstances of the transaction, including the rapidity of the means of communication employed by the offeror. An oral offer must be accepted immediately unless the circumstances indicate otherwise.

(3) However, if, by virtue of the offer or as a result of practices which the parties have established between themselves or of usage, the offeree may indicate assent by performing an act, such as one relating to the dispatch of the goods or payment of the price, without notice to the offeror, the acceptance is effective at the moment the act is performed, provided that the act is performed within the period of time laid down in the preceding paragraph.

Article 19

(1) A reply to an offer which purports to be an acceptance but contains additions, limitations or other modifications is a rejection of the offer and constitutes a counter-offer.

(2) However, a reply to an offer which purports to be an acceptance but contains additional or different terms which do not materially alter the terms of the offer constitutes an acceptance, unless the offeror, without undue delay, objects orally to the discrepancy or dispatches a notice to that effect. If he does not so object, the terms of the contract are the terms of the offer with the modifications contained in the acceptance.

(3) Additional or different terms relating, among other things, to the price, payment, quality and quantity of the goods, place and time of delivery, extent of one party's liability to the other or the settlement of disputes are considered to alter the terms of the offer materially.

Article 20

(1) A period of time for acceptance fixed by the offeror in a telegram or a letter begins to run from the moment the telegram is handed in for dispatch or from the date shown on the letter or, if no such date is shown, from the date shown on the envelope. A period of time for acceptance fixed by the offeror by telephone, telex or other means of instantaneous communication, begins to run from the moment that the offer reaches the offeree.

- b) s'il était raisonnable pour le destinataire de considérer l'offre comme irrévocable et s'il a agi en conséquence.

Article 17

Une offre, même irrévocable, prend fin lorsque son rejet parvient à l'auteur de l'offre.

Article 18

1) Une déclaration ou autre comportement du destinataire indiquant qu'il acquiesce à une offre constitue une acceptation. Le silence ou l'inaction à eux seuls ne peuvent valoir acceptation.

2) L'acceptation d'une offre prend effet au moment où l'indication d'acquiescement parvient à l'auteur de l'offre. L'acceptation ne prend pas effet si cette indication ne parvient pas à l'auteur de l'offre dans le délai qu'il a stipulé ou, à défaut d'une telle stipulation, dans un délai raisonnable, compte tenu des circonstances de la transaction et de la rapidité des moyens de communication utilisés par l'auteur de l'offre. Une offre verbale doit être acceptée immédiatement, à moins que les circonstances n'impliquent le contraire.

3) Cependant, si, en vertu de l'offre, des habitudes qui se sont établies entre les parties ou des usages, le destinataire de l'offre peut indiquer qu'il acquiesce en accomplissant un acte se rapportant, par exemple, à l'expédition des marchandises ou au paiement du prix, sans communication à l'auteur de l'offre, l'acceptation prend effet au moment où cet acte est accompli, pour autant qu'il le soit dans les délais prévus par le paragraphe précédent.

Article 19

1) Une réponse qui tend à être l'acceptation d'une offre, mais qui contient des additions, des limitations ou autres modifications, est un rejet de l'offre et constitue une contre-offre.

2) Cependant, une réponse qui tend à être l'acceptation d'une offre, mais qui contient des éléments complémentaires ou différents n'altérant pas substantiellement les termes de l'offre, constitue une acceptation, à moins que l'auteur de l'offre, sans retard injustifié, n'en relève les différences verbalement ou n'adresse un avis à cet effet. S'il ne le fait pas, les termes du contrat sont ceux de l'offre, avec les modifications comprises dans l'acceptation.

3) Des éléments complémentaires ou différents relatifs notamment au prix, au paiement, à la qualité et à la quantité des marchandises, au lieu et au moment de la livraison, à l'étendue de la responsabilité d'une partie à l'égard de l'autre ou au règlement des différends, sont considérés comme altérant substantiellement les termes de l'offre.

Article 20

1) Le délai d'acceptation fixé par l'auteur de l'offre dans un télégramme ou une lettre commence à courir au moment où le télégramme est remis pour expédition ou à la date qui apparaît sur la lettre ou, à défaut, à la date qui apparaît sur l'enveloppe. Le délai d'acceptation que l'auteur de l'offre fixe par téléphone, par télex ou par d'autres moyens de communication instantanés commence à courir au moment où l'offre parvient au destinataire.

(2) Official holidays or non-business days occurring during the period for acceptance are included in calculating the period. However, if a notice of acceptance cannot be delivered at the address of the offeror on the last day of the period because that day falls on an official holiday or a non-business day at the place of business of the offeror, the period is extended until the first business day which follows.

Article 21

(1) A late acceptance is nevertheless effective as an acceptance if without delay the offeror orally so informs the offeree or dispatches a notice to that effect.

(2) If a letter or other writing containing a late acceptance shows that it has been sent in such circumstances that if its transmission had been normal it would have reached the offeror in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror orally informs the offeree that he considers his offer as having lapsed or dispatches a notice to that effect.

Article 22

An acceptance may be withdrawn if the withdrawal reaches the offeror before or at the same time as the acceptance would have become effective.

Article 23

A contract is concluded at the moment when an acceptance of an offer becomes effective in accordance with the provisions of this Convention.

Article 24

For the purposes of this Part of the Convention, an offer, declaration of acceptance or any other indication of intention "reaches" the addressee when it is made orally to him or delivered by any other means to him personally, to his place of business or mailing address or, if he does not have a place of business or mailing address, to his habitual residence.

PART III

SALE OF GOODS

CHAPTER I

GENERAL PROVISIONS

Article 25

A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.

2) Les jours fériés ou chômés qui tombent pendant que court le délai d'acceptation sont comptés dans le calcul de ce délai. Cependant, si la notification ne peut être remise à l'adresse de l'auteur de l'offre le dernier jour du délai, parce que celui-ci tombe un jour férié ou chômé au lieu d'établissement de l'auteur de l'offre, le délai est prorogé jusqu'au premier jour ouvrable suivant.

Article 21

1) Une acceptation tardive produit néanmoins effet en tant qu'acceptation si, sans retard, l'auteur de l'offre en informe verbalement le destinataire ou lui adresse un avis à cet effet.

2) Si la lettre ou autre écrit contenant une acceptation tardive révèle qu'elle a été expédiée dans des conditions telles que, si sa transmission avait été régulière, elle serait parvenue à temps à l'auteur de l'offre, l'acceptation tardive produit effet en tant qu'acceptation à moins que, sans retard, l'auteur de l'offre n'informe verbalement le destinataire de l'offre qu'il considère que son offre avait pris fin ou qu'il ne lui adresse un avis à cet effet.

Article 22

L'acceptation peut être rétractée si la rétractation parvient à l'auteur de l'offre avant le moment où l'acceptation aurait pris effet ou à ce moment.

Article 23

Le contrat est conclu au moment où l'acceptation d'une offre prend effet conformément aux dispositions de la présente Convention.

Article 24

Aux fins de la présente partie de la Convention, une offre, une déclaration d'acceptation ou toute autre manifestation d'intention «parvient» à son destinataire lorsqu'elle lui est faite verbalement ou est délivrée par tout autre moyen au destinataire lui-même, à son établissement, à son adresse postale ou, s'il n'a pas d'établissement ou d'adresse postale, à sa résidence habituelle.

TROISIÈME PARTIE

VENTE DE MARCHANDISES

CHAPITRE I

DISPOSITIONS GÉNÉRALES

Article 25

Une contravention au contrat commise par l'une des parties est essentielle lorsqu'elle cause à l'autre partie un préjudice tel qu'elle la prive substantiellement de ce que celle-ci était en droit d'attendre du contrat, à moins que la partie en défaut n'ait pas prévu un tel résultat et qu'une personne raisonnable de même qualité placée dans la même situation ne l'aurait pas prévu non plus.

Article 26

A declaration of avoidance of the contract is effective only if made by notice to the other party.

Article 27

Unless otherwise expressly provided in this Part of the Convention, if any notice, request or other communication is given or made by a party in accordance with this Part and by means appropriate in the circumstances, a delay or error in the transmission of the communication or its failure to arrive does not deprive that party of the right to rely on the communication.

Article 28

If, in accordance with the provisions of this Convention, one party is entitled to require performance of any obligation by the other party, a court is not bound to enter a judgement for specific performance unless the court would do so under its own law in respect of similar contracts of sale not governed by this Convention.

Article 29

(1) A contract may be modified or terminated by the mere agreement of the parties.

(2) A contract in writing which contains a provision requiring any modification or termination by agreement to be in writing may not be otherwise modified or terminated by agreement. However, a party may be precluded by his conduct from asserting such a provision to the extent that the other party has relied on that conduct.

*CHAPTER II**OBLIGATIONS OF THE SELLER**Article 30*

The seller must deliver the goods, hand over any documents relating to them and transfer the property in the goods, as required by the contract and this Convention.

*Section I. Delivery of the goods and handing over of documents**Article 31*

If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists:

- (a) if the contract of sale involves carriage of the goods—in handing the goods over to the first carrier for transmission to the buyer;

Article 26

Une déclaration de résolution du contrat n'a d'effet que si elle est faite par notification à l'autre partie.

Article 27

Sauf disposition contraire expresse de la présente partie de la Convention, si une notification, demande ou autre communication est faite par une partie au contrat conformément à la présente partie et par un moyen approprié aux circonstances, un retard ou une erreur dans la transmission de la communication ou le fait qu'elle n'est pas arrivée à destination ne prive pas cette partie au contrat du droit de s'en prévaloir.

Article 28

Si, conformément aux dispositions de la présente Convention, une partie a le droit d'exiger de l'autre l'exécution d'une obligation, un tribunal n'est tenu d'ordonner l'exécution en nature que s'il le ferait en vertu de son propre droit pour des contrats de vente semblables non régis par la présente Convention.

Article 29

1) Un contrat peut être modifié ou résilié par accord amiable entre les parties.

2) Un contrat écrit qui contient une disposition stipulant que toute modification ou résiliation amiable doit être faite par écrit ne peut être modifié ou résilié à l'amiable sous une autre forme. Toutefois, le comportement de l'une des parties peut l'empêcher d'invoquer une telle disposition si l'autre partie s'est fondée sur ce comportement.

*CHAPITRE II**OBLIGATIONS DU VENDEUR**Article 30*

Le vendeur s'oblige, dans les conditions prévues au contrat et par la présente Convention, à livrer les marchandises, à en transférer la propriété et, s'il y a lieu, à remettre les documents s'y rapportant.

*Section I. Livraison des marchandises et remise des documents.**Article 31*

Si le vendeur n'est pas tenu de livrer les marchandises en un autre lieu particulier son obligation de livraison consiste :

- a) lorsque le contrat de vente implique un transport des marchandises, à remettre les marchandises au premier transporteur pour transmission à l'acheteur;

- (b) if, in cases not within the preceding subparagraph, the contract relates to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place—in placing the goods at the buyer's disposal at that place;
- (c) in other cases—in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract.

Article 32

(1) If the seller, in accordance with the contract or this Convention, hands the goods over to a carrier and if the goods are not clearly identified to the contract by markings on the goods, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the goods.

(2) If the seller is bound to arrange for carriage of the goods, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation.

(3) If the seller is not bound to effect insurance in respect of the carriage of the goods, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

Article 33

The seller must deliver the goods:

- (a) if a date is fixed by or determinable from the contract, on that date;
- (b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date; or
- (c) in any other case, within a reasonable time after the conclusion of the contract.

Article 34

If the seller is bound to hand over documents relating to the goods, he must hand them over at the time and place and in the form required by the contract. If the seller has handed over documents before that time, he may, up to that time, cure any lack of conformity in the documents, if the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

- b) lorsque, dans les cas non visés au précédent alinéa, le contrat porte sur un corps certain ou sur une chose de genre qui doit être prélevée sur une masse déterminée ou qui doit être fabriquée ou produite et lorsque, au moment de la conclusion du contrat, les parties savaient que les marchandises se trouvaient ou devaient être fabriquées ou produites en un lieu particulier, à mettre les marchandises à la disposition de l'acheteur en ce lieu;
- c) dans les autres cas, à mettre les marchandises à la disposition de l'acheteur au lieu où le vendeur avait son établissement au moment de la conclusion du contrat.

Article 32

1) Si, conformément au contrat ou à la présente Convention, le vendeur remet les marchandises à un transporteur et si les marchandises ne sont pas clairement identifiées aux fins du contrat par l'apposition d'un signe distinctif sur les marchandises, par des documents de transport ou par tout autre moyen, le vendeur doit donner à l'acheteur avis de l'expédition en désignant spécifiquement les marchandises.

2) Si le vendeur est tenu de prendre des dispositions pour le transport des marchandises, il doit conclure les contrats nécessaires pour que le transport soit effectué jusqu'au lieu prévu, par les moyens de transport appropriés aux circonstances et selon les conditions usuelles pour un tel transport.

3) Si le vendeur n'est pas tenu de souscrire lui-même une assurance de transport, il doit fournir à l'acheteur, à la demande de celui-ci, tous renseignements dont il dispose qui sont nécessaires à la conclusion de cette assurance.

Article 33

Le vendeur doit livrer les marchandises :

- a) si une date est fixée par le contrat ou déterminable par référence au contrat, à cette date;
- b) si une période de temps est fixée par le contrat ou déterminable par référence au contrat, à un moment quelconque au cours de cette période, à moins qu'il ne résulte des circonstances que c'est à l'acheteur de choisir une date; ou
- c) dans tous les autres cas, dans un délai raisonnable à partir de la conclusion du contrat.

Article 34

Si le vendeur est tenu de remettre les documents se rapportant aux marchandises, il doit s'acquitter de cette obligation au moment, au lieu et dans la forme prévue au contrat. En cas de remise anticipée, le vendeur conserve, jusqu'au moment prévu pour la remise, le droit de réparer tout défaut de conformité des documents, à condition que l'exercice de ce droit ne cause à l'acheteur ni inconvénient ni frais déraisonnables. Toutefois, l'acheteur conserve le droit de demander des dommages-intérêts conformément à la présente Convention.

*Section II. Conformity of the goods and third party claims**Article 35*

(1) The seller must deliver goods which are of the quantity, quality and description required by the contract and which are contained or packaged in the manner required by the contract.

(2) Except where the parties have agreed otherwise, the goods do not conform with the contract unless they:

- (a) are fit for the purposes for which goods of the same description would ordinarily be used;
- (b) are fit for any particular purpose expressly or impliedly made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller's skill and judgment;
- (c) possess the qualities of goods which the seller has held out to the buyer as a sample or model;
- (d) are contained or packaged in the manner usual for such goods or, where there is no such manner, in a manner adequate to preserve and protect the goods.

(3) The seller is not liable under subparagraphs (a) to (d) of the preceding paragraph for any lack of conformity of the goods if at the time of the conclusion of the contract the buyer knew or could not have been unaware of such lack of conformity.

Article 36

(1) The seller is liable in accordance with the contract and this Convention for any lack of conformity which exists at the time when the risk passes to the buyer, even though the lack of conformity becomes apparent only after that time.

(2) The seller is also liable for any lack of conformity which occurs after the time indicated in the preceding paragraph and which is due to a breach of any of his obligations, including a breach of any guarantee that for a period of time the goods will remain fit for their ordinary purpose or for some particular purpose or will retain specified qualities or characteristics.

Article 37

If the seller has delivered goods before the date for delivery, he may, up to that date, deliver any missing part or make up any deficiency in the quantity of the goods delivered, or deliver goods in replacement of any non-conforming goods delivered or remedy any lack of conformity in the goods delivered, provided that the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

Article 38

(1) The buyer must examine the goods, or cause them to be examined, within as short a period as is practicable in the circumstances.

Section II. *Conformité des marchandises et droits ou prétentions de tiers.*

Article 35

1) Le vendeur doit livrer des marchandises dont la quantité, la qualité et le type répondent à ceux qui sont prévus au contrat, et dont l'emballage ou le conditionnement correspond à celui qui est prévu au contrat.

2) À moins que les parties n'en soient convenues autrement, les marchandises ne sont conformes au contrat que si :

- a) elles sont propres aux usages auxquels serviraient habituellement des marchandises du même type;
- b) elles sont propres à tout usage spécial qui a été porté expressément ou tacitement à la connaissance du vendeur au moment de la conclusion du contrat, sauf s'il résulte des circonstances que l'acheteur ne s'en est pas remis à la compétence ou à l'appréciation du vendeur ou qu'il n'était pas raisonnable de sa part de le faire;
- c) elles possèdent les qualités d'une marchandise que le vendeur a présentée à l'acheteur comme échantillon ou modèle;
- d) elles sont emballées ou conditionnées selon le mode habituel pour les marchandises du même type ou, à défaut de mode habituel, d'une manière propre à les conserver et à les protéger.

3) Le vendeur n'est pas responsable, au regard des alinéas a) à d) du paragraphe précédent, d'un défaut de conformité que l'acheteur connaissait ou ne pouvait ignorer au moment de la conclusion du contrat.

Article 36

1) Le vendeur est responsable, conformément au contrat et à la présente Convention, de tout défaut de conformité qui existe au moment du transfert des risques à l'acheteur, même si ce défaut n'apparaît qu'ultérieurement.

2) Le vendeur est également responsable de tout défaut de conformité qui survient après le moment indiqué au paragraphe précédent et qui est imputable à l'inexécution de l'une quelconque de ses obligations, y compris à un manquement à une garantie que, pendant une certaine période, les marchandises resteront propres à leur usage normal ou à un usage spécial ou conserveront des qualités ou caractéristiques spécifiées.

Article 37

En cas de livraison anticipée, le vendeur a le droit, jusqu'à la date prévue pour la livraison, soit de livrer une partie ou une quantité manquante, ou des marchandises nouvelles en remplacement des marchandises non conformes au contrat, soit de réparer tout défaut de conformité des marchandises, à condition que l'exercice de ce droit ne cause à l'acheteur ni inconvénients ni frais déraisonnables. Toutefois, l'acheteur conserve le droit de demander des dommages-intérêts conformément à la présente Convention.

Article 38

1) L'acheteur doit examiner les marchandises ou les faire examiner dans un délai aussi bref que possible eu égard aux circonstances.

(2) If the contract involves carriage of the goods, examination may be deferred until after the goods have arrived at their destination.

(3) If the goods are redirected in transit or redispached by the buyer without a reasonable opportunity for examination by him and at the time of the conclusion of the contract the seller knew or ought to have known of the possibility of such redirection or redispach, examination may be deferred until after the goods have arrived at the new destination.

Article 39

(1) The buyer loses the right to rely on a lack of conformity of the goods if he does not give notice to the seller specifying the nature of the lack of conformity within a reasonable time after he has discovered it or ought to have discovered it.

(2) In any event, the buyer loses the right to rely on a lack of conformity of the goods if he does not give the seller notice thereof at the latest within a period of two years from the date on which the goods were actually handed over to the buyer, unless this time-limit is inconsistent with a contractual period of guarantee.

Article 40

The seller is not entitled to rely on the provisions of articles 38 and 39 if the lack of conformity relates to facts of which he knew or could not have been unaware and which he did not disclose to the buyer.

Article 41

The seller must deliver goods which are free from any right or claim of a third party, unless the buyer agreed to take the goods subject to that right or claim. However, if such right or claim is based on industrial property or other intellectual property, the seller's obligation is governed by article 42.

Article 42

(1) The seller must deliver goods which are free from any right or claim of a third party based on industrial property or other intellectual property, of which at the time of the conclusion of the contract the seller knew or could not have been unaware, provided that the right or claim is based on industrial property or other intellectual property:

- (a) under the law of the State where the goods will be resold or otherwise used, if it was contemplated by the parties at the time of the conclusion of the contract that the goods would be resold or otherwise used in that State; or
- (b) in any other case, under the law of the State where the buyer has his place of business.

(2) The obligation of the seller under the preceding paragraph does not extend to cases where:

- (a) at the time of the conclusion of the contract the buyer knew or could not have been unaware of the right or claim; or

2) Si le contrat implique un transport des marchandises, l'examen peut être différé jusqu'à leur arrivée à destination.

3) Si les marchandises sont déroutées ou réexpédiées par l'acheteur sans que celui-ci ait eu raisonnablement la possibilité de les examiner et si, au moment de la conclusion du contrat, le vendeur connaissait ou aurait dû connaître la possibilité de ce déroutage ou de cette réexpédition, l'examen peut être différé jusqu'à l'arrivée des marchandises à leur nouvelle destination.

Article 39

1) L'acheteur est déchu du droit de se prévaloir d'un défaut de conformité s'il ne le dénonce pas au vendeur, en précisant la nature de ce défaut, dans un délai raisonnable à partir du moment où il l'a constaté ou aurait dû le constater.

2) Dans tous les cas, l'acheteur est déchu du droit de se prévaloir d'un défaut de conformité, s'il ne le dénonce pas au plus tard dans un délai de deux ans à compter de la date à laquelle les marchandises lui ont été effectivement remises, à moins que ce délai ne soit incompatible avec la durée d'une garantie contractuelle.

Article 40

Le vendeur ne peut pas se prévaloir des dispositions des articles 38 et 39 lorsque le défaut de conformité porte sur des faits qu'il connaissait ou ne pouvait ignorer et qu'il n'a pas révélés à l'acheteur.

Article 41

Le vendeur doit livrer les marchandises libres de tout droit ou prétention d'un tiers, à moins que l'acheteur n'accepte de prendre les marchandises dans ces conditions. Toutefois, si ce droit ou cette prétention est fondée sur la propriété industrielle ou autre propriété intellectuelle, l'obligation du vendeur est régie par l'article 42.

Article 42

1) Le vendeur doit livrer les marchandises libres de tout droit ou prétention d'un tiers fondé sur la propriété industrielle ou autre propriété intellectuelle, qu'il connaissait ou ne pouvait ignorer au moment de la conclusion du contrat, à condition que ce droit ou cette prétention soit fondé sur la propriété industrielle ou autre propriété intellectuelle :

- a) en vertu de la loi de l'État où les marchandises doivent être revendues ou utilisées, si les parties ont envisagé au moment de la conclusion du contrat que les marchandises seraient revendues ou utilisées dans cet État; ou
- b) dans tous les autres cas, en vertu de la loi de l'État où l'acheteur a son établissement.

2) Dans les cas suivants, le vendeur n'est pas tenu de l'obligation prévue au paragraphe précédent :

- a) au moment de la conclusion du contrat, l'acheteur connaissait ou ne pouvait ignorer l'existence du droit ou de la prétention; ou

- (b) the right or claim results from the seller's compliance with technical drawings, designs, formulae or other such specifications furnished by the buyer.

Article 43

(1) The buyer loses the right to rely on the provisions of article 41 or article 42 if he does not give notice to the seller specifying the nature of the right or claim of the third party within a reasonable time after he has become aware or ought to have become aware of the right or claim.

(2) The seller is not entitled to rely on the provisions of the preceding paragraph if he knew of the right or claim of the third party and the nature of it.

Article 44

Notwithstanding the provisions of paragraph (1) of article 39 and paragraph (1) of article 43, the buyer may reduce the price in accordance with article 50 or claim damages, except for loss of profit, if he has a reasonable excuse for his failure to give the required notice.

Section III. Remedies for breach of contract by the seller

Article 45

(1) If the seller fails to perform any of his obligations under the contract or this Convention, the buyer may:

- (a) exercise the rights provided in articles 46 to 52;
- (b) claim damages as provided in articles 74 to 77.

(2) The buyer is not deprived of any right he may have to claim damages by exercising his right to other remedies.

(3) No period of grace may be granted to the seller by a court or arbitral tribunal when the buyer resorts to a remedy for breach of contract.

Article 46

(1) The buyer may require performance by the seller of his obligations unless the buyer has resorted to a remedy which is inconsistent with this requirement.

(2) If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity constitutes a fundamental breach of contract and a request for substitute goods is made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

(3) If the goods do not conform with the contract, the buyer may require the seller to remedy the lack of conformity by repair, unless this is unreasonable having regard to all the circumstances. A request for repair must be made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

- b) le droit ou la prétention résulte de ce que le vendeur s'est conformé aux plans techniques, dessins, formules ou autres spécifications analogues fournis par l'acheteur.

Article 43

1) L'acheteur perd le droit de se prévaloir des dispositions des articles 41 et 42 s'il ne dénonce pas au vendeur le droit ou la prétention du tiers, en précisant la nature de ce droit ou de cette prétention, dans un délai raisonnable à partir du moment où il en a eu connaissance ou aurait dû en avoir connaissance.

2) Le vendeur ne peut pas se prévaloir des dispositions du paragraphe précédent s'il connaissait le droit ou la prétention du tiers et sa nature.

Article 44

Nonobstant les dispositions du paragraphe 1 de l'article 39 et du paragraphe 1 de l'article 43, l'acheteur peut réduire le prix conformément à l'article 50 ou demander des dommages-intérêts, sauf pour le gain manqué, s'il a une excuse raisonnable pour n'avoir pas procédé à la dénonciation requise.

Section III. Moyens dont dispose l'acheteur en cas de contravention au contrat par le vendeur.

Article 45

1) Si le vendeur n'a pas exécuté l'une quelconque des obligations résultant pour lui du contrat de vente ou de la présente Convention, l'acheteur est fondé à :

- a) exercer les droits prévus aux articles 46 à 52;
- b) demander les dommages-intérêts prévus aux articles 74 à 77.

2) L'acheteur ne perd pas le droit de demander des dommages-intérêts lorsqu'il exerce son droit de recourir à un autre moyen.

3) Aucun délai de grâce ne peut être accordé au vendeur par un juge ou par un arbitre lorsque l'acheteur se prévaut d'un des moyens dont il dispose en cas de contravention au contrat.

Article 46

1) L'acheteur peut exiger du vendeur l'exécution de ses obligations, à moins qu'il ne se soit prévalu d'un moyen incompatible avec cette exigence.

2) Si les marchandises ne sont pas conformes au contrat, l'acheteur ne peut exiger du vendeur la livraison de marchandises de remplacement que si le défaut de conformité constitue une contravention essentielle au contrat et si cette livraison est demandée au moment de la dénonciation du défaut de conformité faite conformément à l'article 39 ou dans un délai raisonnable à compter de cette dénonciation.

3) Si les marchandises ne sont pas conformes au contrat, l'acheteur peut exiger du vendeur qu'il répare le défaut de conformité, à moins que cela ne soit déraisonnable compte tenu de toutes les circonstances. La réparation doit être demandée au moment de la dénonciation du défaut de conformité faite conformément à l'article 39 ou dans un délai raisonnable à compter de cette dénonciation.

Article 47

(1) The buyer may fix an additional period of time of reasonable length for performance by the seller of his obligations.

(2) Unless the buyer has received notice from the seller that he will not perform within the period so fixed, the buyer may not, during that period, resort to any remedy for breach of contract. However, the buyer is not deprived thereby of any right he may have to claim damages for delay in performance.

Article 48

(1) Subject to article 49, the seller may, even after the date for delivery, remedy at his own expense any failure to perform his obligations, if he can do so without unreasonable delay and without causing the buyer unreasonable inconvenience or uncertainty of reimbursement by the seller of expenses advanced by the buyer. However, the buyer retains any right to claim damages as provided for in this Convention.

(2) If the seller requests the buyer to make known whether he will accept performance and the buyer does not comply with the request within a reasonable time, the seller may perform within the time indicated in his request. The buyer may not, during that period of time, resort to any remedy which is inconsistent with performance by the seller.

(3) A notice by the seller that he will perform within a specified period of time is assumed to include a request, under the preceding paragraph, that the buyer make known his decision.

(4) A request or notice by the seller under paragraph (2) or (3) of this article is not effective unless received by the buyer.

Article 49

(1) The buyer may declare the contract avoided:

- (a) if the failure by the seller to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or
- (b) in case of non-delivery, if the seller does not deliver the goods within the additional period of time fixed by the buyer in accordance with paragraph (1) of article 47 or declares that he will not deliver within the period fixed.

(2) However, in cases where the seller has delivered the goods, the buyer loses the right to declare the contract avoided unless he does so:

- (a) in respect of late delivery, within a reasonable time after he has become aware that delivery has been made;
- (b) in respect of any breach other than late delivery, within a reasonable time:
 - (i) after he knew or ought to have known of the breach;

Article 47

1) L'acheteur peut impartir au vendeur un délai supplémentaire de durée raisonnable pour l'exécution de ses obligations.

2) À moins qu'il n'ait reçu du vendeur une notification l'informant que celui-ci n'exécute pas ses obligations dans le délai ainsi imparti, l'acheteur ne peut, avant l'expiration de ce délai, se prévaloir d'aucun des moyens dont il dispose en cas de contravention au contrat. Toutefois, l'acheteur ne perd pas, de ce fait, le droit de demander des dommages-intérêts pour retard dans l'exécution.

Article 48

1) Sous réserve de l'article 49, le vendeur peut, même après la date de la livraison, réparer à ses frais tout manquement à ses obligations, à condition que cela n'entraîne pas un retard déraisonnable et ne cause à l'acheteur ni inconvénients déraisonnables ni incertitude quant au remboursement par le vendeur des frais faits par l'acheteur. Toutefois, l'acheteur conserve le droit de demander des dommages-intérêts conformément à la présente Convention.

2) Si le vendeur demande à l'acheteur de lui faire savoir s'il accepte l'exécution et si l'acheteur ne lui répond pas dans un délai raisonnable, le vendeur peut exécuter ses obligations dans le délai qu'il a indiqué dans sa demande. L'acheteur ne peut, avant l'expiration de ce délai, se prévaloir d'un moyen incompatible avec l'exécution par le vendeur de ses obligations.

3) Lorsque le vendeur notifie à l'acheteur son intention d'exécuter ses obligations dans un délai déterminé, il est présumé demander à l'acheteur de lui faire connaître sa décision conformément au paragraphe précédent.

4) Une demande ou une notification faite par le vendeur en vertu des paragraphes 2 ou 3 du présent article n'a d'effet que si elle est reçue par l'acheteur.

Article 49

1) L'acheteur peut déclarer le contrat résolu :

- a) si l'inexécution par le vendeur de l'une quelconque des obligations résultant pour lui du contrat ou de la présente Convention constitue une contravention essentielle au contrat; ou
- b) en cas de défaut de livraison, si le vendeur ne livre pas les marchandises dans le délai supplémentaire imparti par l'acheteur conformément au paragraphe 1 de l'article 47 ou s'il déclare qu'il ne les livrera pas dans le délai ainsi imparti.

2) Cependant, lorsque le vendeur a livré les marchandises, l'acheteur est déchu du droit de déclarer le contrat résolu s'il ne l'a pas fait :

- a) en cas de livraison tardive, dans un délai raisonnable à partir du moment où il a su que la livraison avait été effectuée;
- b) en cas de contravention autre que la livraison tardive, dans un délai raisonnable :
 - (i) à partir du moment où il a eu connaissance ou aurait dû avoir connaissance de cette contravention;

- (ii) after the expiration of any additional period of time fixed by the buyer in accordance with paragraph (1) of article 47, or after the seller has declared that he will not perform his obligations within such an additional period; or
- (iii) after the expiration of any additional period of time indicated by the seller in accordance with paragraph (2) of article 48, or after the buyer has declared that he will not accept performance.

Article 50

If the goods do not conform with the contract and whether or not the price has already been paid, the buyer may reduce the price in the same proportion as the value that the goods actually delivered had at the time of the delivery bears to the value that conforming goods would have had at that time. However, if the seller remedies any failure to perform his obligations in accordance with article 37 or article 48 or if the buyer refuses to accept performance by the seller in accordance with those articles, the buyer may not reduce the price.

Article 51

(1) If the seller delivers only a part of the goods or if only a part of the goods delivered is in conformity with the contract, articles 46 to 50 apply in respect of the part which is missing or which does not conform.

(2) The buyer may declare the contract avoided in its entirety only if the failure to make delivery completely or in conformity with the contract amounts to a fundamental breach of the contract.

Article 52

(1) If the seller delivers the goods before the date fixed, the buyer may take delivery or refuse to take delivery.

(2) If the seller delivers a quantity of goods greater than that provided for in the contract, the buyer may take delivery or refuse to take delivery of the excess quantity. If the buyer takes delivery of all or part of the excess quantity, he must pay for it at the contract rate.

CHAPTER III

OBLIGATIONS OF THE BUYER

Article 53

The buyer must pay the price for the goods and take delivery of them as required by the contract and this Convention.

- (ii) après l'expiration de tout délai supplémentaire imparti par l'acheteur conformément au paragraphe 1 de l'article 47 ou après que le vendeur a déclaré qu'il n'exécuterait pas ses obligations dans ce délai supplémentaire; ou
- (iii) après l'expiration de tout délai supplémentaire indiqué par le vendeur conformément au paragraphe 2 de l'article 48 ou après que l'acheteur a déclaré qu'il n'accepterait pas l'exécution.

Article 50

En cas de défaut de conformité des marchandises au contrat, que le prix ait été ou non déjà payé, l'acheteur peut réduire le prix proportionnellement à la différence entre la valeur que les marchandises effectivement livrées avaient au moment de la livraison et la valeur que des marchandises conformes auraient eue à ce moment. Cependant, si le vendeur répare tout manquement à ses obligations conformément à l'article 37 ou à l'article 48 ou si l'acheteur refuse d'accepter l'exécution par le vendeur conformément à ces articles, l'acheteur ne peut réduire le prix.

Article 51

1) Si le vendeur ne livre qu'une partie des marchandises ou si une partie seulement des marchandises livrées est conforme au contrat, les articles 46 à 50 s'appliquent en ce qui concerne la partie manquante ou non conforme.

2) L'acheteur ne peut déclarer le contrat résolu dans sa totalité que si l'inexécution partielle ou le défaut de conformité constitue une contravention essentielle au contrat.

Article 52

1) Si le vendeur livre les marchandises avant la date fixée, l'acheteur a la faculté d'en prendre livraison ou de refuser d'en prendre livraison.

2) Si le vendeur livre une quantité supérieure à celle prévue au contrat, l'acheteur peut accepter ou refuser de prendre livraison de la quantité excédentaire. Si l'acheteur accepte d'en prendre livraison en tout ou en partie, il doit la payer au tarif du contrat.

CHAPITRE III

OBLIGATIONS DE L'ACHETEUR

Article 53

L'acheteur s'oblige, dans les conditions prévues au contrat et par la présente Convention, à payer le prix et à prendre livraison des marchandises.

Section I. *Payment of the price*

Article 54

The buyer's obligation to pay the price includes taking such steps and complying with such formalities as may be required under the contract or any laws and regulations to enable payment to be made.

Article 55

Where a contract has been validly concluded but does not expressly or implicitly fix or make provision for determining the price, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such goods sold under comparable circumstances in the trade concerned.

Article 56

If the price is fixed according to the weight of the goods, in case of doubt it is to be determined by the net weight.

Article 57

(1) If the buyer is not bound to pay the price at any other particular place, he must pay it to the seller:

- (a) at the seller's place of business; or
- (b) if the payment is to be made against the handing over of the goods or of documents, at the place where the handing over takes place.

(2) The seller must bear any increase in the expenses incidental to payment which is caused by a change in his place of business subsequent to the conclusion of the contract.

Article 58

(1) If the buyer is not bound to pay the price at any other specific time, he must pay it when the seller places either the goods or documents controlling their disposition at the buyer's disposal in accordance with the contract and this Convention. The seller may make such payment a condition for handing over the goods or documents.

(2) If the contract involves carriage of the goods, the seller may dispatch the goods on terms whereby the goods, or documents controlling their disposition, will not be handed over to the buyer except against payment of the price.

(3) The buyer is not bound to pay the price until he has had an opportunity to examine the goods, unless the procedures for delivery or payment agreed upon by the parties are inconsistent with his having such an opportunity.

Section I. *Paiement du prix.*

Article 54

L'obligation qu'a l'acheteur de payer le prix comprend celle de prendre les mesures et d'accomplir les formalités destinées à permettre le paiement du prix qui sont prévues par le contrat ou par les lois et les règlements.

Article 55

Si la vente est valablement conclue sans que le prix des marchandises vendues ait été fixé dans le contrat expressément ou implicitement ou par une disposition permettant de le déterminer, les parties sont réputées, sauf indications contraires, s'être tacitement référées au prix habituellement pratiqué au moment de la conclusion du contrat, dans la branche commerciale considérée, pour les mêmes marchandises vendues dans des circonstances comparables.

Article 56

Si le prix est fixé d'après le poids des marchandises, c'est le poids net qui, en cas de doute, détermine ce prix.

Article 57

1) Si l'acheteur n'est pas tenu de payer le prix en un autre lieu particulier, il doit payer le vendeur :

- a) à l'établissement de celui-ci; ou
- b) si le paiement doit être fait contre la remise des marchandises ou des documents, au lieu de cette remise.

2) Le vendeur doit supporter toute augmentation des frais accessoires au paiement qui résultent de son changement d'établissement après la conclusion du contrat.

Article 58

1) Si l'acheteur n'est pas tenu de payer le prix à un autre moment déterminé, il doit le payer lorsque, conformément au contrat et à la présente Convention, le vendeur met à sa disposition soit les marchandises soit des documents représentatifs des marchandises. Le vendeur peut faire du paiement une condition de la remise des marchandises ou des documents.

2) Si le contrat implique un transport des marchandises, le vendeur peut en faire l'expédition sous condition que celles-ci ou les documents représentatifs ne seront remis à l'acheteur que contre paiement du prix.

3) L'acheteur n'est pas tenu de payer le prix avant d'avoir eu la possibilité d'examiner les marchandises, à moins que les modalités de livraison ou de paiement dont sont convenues les parties ne lui en laissent pas la possibilité.

Article 59

The buyer must pay the price on the date fixed by or determinable from the contract and this Convention without the need for any request or compliance with any formality on the part of the seller.

*Section II. Taking delivery**Article 60*

The buyer's obligation to take delivery consists:

- (a) in doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and
- (b) in taking over the goods.

*Section III. Remedies for breach of contract by the buyer**Article 61*

(1) If the buyer fails to perform any of his obligations under the contract or this Convention, the seller may:

- (a) exercise the rights provided in articles 62 to 65;
- (b) claim damages as provided in articles 74 to 77.

(2) The seller is not deprived of any right he may have to claim damages by exercising his right to other remedies.

(3) No period of grace may be granted to the buyer by a court or arbitral tribunal when the seller resorts to a remedy for breach of contract.

Article 62

The seller may require the buyer to pay the price, take delivery or perform his other obligations, unless the seller has resorted to a remedy which is inconsistent with this requirement.

Article 63

(1) The seller may fix an additional period of time of reasonable length for performance by the buyer of his obligations.

(2) Unless the seller has received notice from the buyer that he will not perform within the period so fixed, the seller may not, during that period, resort to any remedy for breach of contract. However, the seller is not deprived thereby of any right he may have to claim damages for delay in performance.

Article 59

L'acheteur doit payer le prix à la date fixée au contrat ou résultant du contrat et de la présente Convention, sans qu'il soit besoin d'aucune demande ou autre formalité de la part du vendeur.

*Section II. Prise de livraison.**Article 60*

L'obligation de l'acheteur de prendre livraison consiste :

- a) à accomplir tout acte qu'on peut raisonnablement attendre de lui pour permettre au vendeur d'effectuer la livraison; et
- b) à retirer les marchandises.

*Section III. Moyens dont dispose le vendeur en cas de contravention au contrat par l'acheteur.**Article 61*

1) Si l'acheteur n'a pas exécuté l'une quelconque des obligations résultant pour lui du contrat de vente ou de la présente Convention, le vendeur est fondé à :

- a) exercer les droits prévus aux articles 62 à 65;
- b) demander les dommages-intérêts prévus aux articles 74 à 77.

2) Le vendeur ne perd pas le droit de demander des dommages-intérêts lorsqu'il exerce son droit de recourir à un autre moyen.

3) Aucun délai de grâce ne peut être accordé à l'acheteur par un juge ou par un arbitre lorsque le vendeur se prévaut d'un des moyens dont il dispose en cas de contravention au contrat.

Article 62

Le vendeur peut exiger de l'acheteur le paiement du prix, la prise de livraison des marchandises ou l'exécution des autres obligations de l'acheteur, à moins qu'il ne se soit prévalu d'un moyen incompatible avec ces exigences.

Article 63

1) Le vendeur peut impartir à l'acheteur un délai supplémentaire de durée raisonnable pour l'exécution de ses obligations.

2) À moins qu'il n'ait reçu de l'acheteur une notification l'informant que celui-ci n'exécuterait pas ses obligations dans le délai ainsi imparté, le vendeur ne peut, avant l'expiration de ce délai, se prévaloir d'aucun des moyens dont il dispose en cas de contravention au contrat. Toutefois, le vendeur ne perd pas, de ce fait, le droit de demander des dommages-intérêts pour retard dans l'exécution.

Article 64

(1) The seller may declare the contract avoided:

- (a) if the failure by the buyer to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or
- (b) if the buyer does not, within the additional period of time fixed by the seller in accordance with paragraph (1) of article 63, perform his obligation to pay the price or take delivery of the goods, or if he declares that he will not do so within the period so fixed.

(2) However, in cases where the buyer has paid the price, the seller loses the right to declare the contract avoided unless he does so:

- (a) in respect of late performance by the buyer, before the seller has become aware that performance has been rendered; or
- (b) in respect of any breach other than late performance by the buyer, within a reasonable time:
 - (i) after the seller knew or ought to have known of the breach; or
 - (ii) after the expiration of any additional period of time fixed by the seller in accordance with paragraph (1) of article 63, or after the buyer has declared that he will not perform his obligations within such an additional period.

Article 65

(1) If under the contract the buyer is to specify the form, measurement or other features of the goods and he fails to make such specification either on the date agreed upon or within a reasonable time after receipt of a request from the seller, the seller may, without prejudice to any other rights he may have, make the specification himself in accordance with the requirements of the buyer that may be known to him.

(2) If the seller makes the specification himself, he must inform the buyer of the details thereof and must fix a reasonable time within which the buyer may make a different specification. If, after receipt of such a communication, the buyer fails to do so within the time so fixed, the specification made by the seller is binding.

*CHAPTER IV**PASSING OF RISK**Article 66*

Loss of or damage to the goods after the risk has passed to the buyer does not discharge him from his obligation to pay the price, unless the loss or damage is due to an act or omission of the seller.

Article 64

1) Le vendeur peut déclarer le contrat résolu :

- a) si l'inexécution par l'acheteur de l'une quelconque des obligations résultant pour lui du contrat ou de la présente Convention constitue une contravention essentielle au contrat; ou
- b) si l'acheteur n'exécute pas son obligation de payer le prix ou ne prend pas livraison des marchandises dans le délai supplémentaire imparti par le vendeur conformément au paragraphe 1 de l'article 63 ou s'il déclare qu'il ne le fera pas dans le délai ainsi imparti.

2) Cependant, lorsque l'acheteur a payé le prix, le vendeur est déchu du droit de déclarer le contrat résolu s'il ne l'a pas fait :

- a) en cas d'exécution tardive par l'acheteur, avant d'avoir su qu'il y avait eu exécution; ou
- b) en cas de contravention pour l'acheteur autre que l'exécution tardive, dans un délai raisonnable :
 - (i) à partir du moment où le vendeur a eu connaissance ou aurait dû avoir connaissance de cette contravention; ou
 - (ii) après l'expiration de tout délai supplémentaire imparti par le vendeur conformément au paragraphe 1 de l'article 63 ou après que l'acheteur ait déclaré qu'il n'exécuterait pas ses obligations dans ce délai supplémentaire.

Article 65

1) Si le contrat prévoit que l'acheteur doit spécifier la forme, la mesure ou d'autres caractéristiques des marchandises et si l'acheteur n'effectue pas cette spécification à la date convenue ou dans un délai raisonnable à compter de la réception d'une demande du vendeur, celui-ci peut, sans préjudice de tous autres droits qu'il peut avoir, effectuer lui-même cette spécification d'après les besoins de l'acheteur dont il peut avoir connaissance.

2) Si le vendeur effectue lui-même la spécification, il doit en faire connaître les modalités à l'acheteur et lui impartir un délai raisonnable pour une spécification différente. Si, après réception de la communication du vendeur, l'acheteur n'utilise pas cette possibilité dans le délai ainsi imparti, la spécification effectuée par le vendeur est définitive.

*CHAPITRE IV***TRANSFERT DES RISQUES***Article 66*

La perte ou la détérioration des marchandises survenue après le transfert des risques à l'acheteur ne libère pas celui-ci de son obligation de payer le prix, à moins que ces événements ne soient dus à un fait du vendeur.

Article 67

(1) If the contract of sale involves carriage of the goods and the seller is not bound to hand them over at a particular place, the risk passes to the buyer when the goods are handed over to the first carrier for transmission to the buyer in accordance with the contract of sale. If the seller is bound to hand the goods over to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place. The fact that the seller is authorized to retain documents controlling the disposition of the goods does not affect the passage of the risk.

(2) Nevertheless, the risk does not pass to the buyer until the goods are clearly identified to the contract, whether by markings on the goods, by shipping documents, by notice given to the buyer or otherwise.

Article 68

The risk in respect of goods sold in transit passes to the buyer from the time of the conclusion of the contract. However, if the circumstances so indicate, the risk is assumed by the buyer from the time the goods were handed over to the carrier who issued the documents embodying the contract of carriage. Nevertheless, if at the time of the conclusion of the contract of sale the seller knew or ought to have known that the goods had been lost or damaged and did not disclose this to the buyer, the loss or damage is at the risk of the seller.

Article 69

(1) In cases not within articles 67 and 68, the risk passes to the buyer when he takes over the goods or, if he does not do so in due time, from the time when the goods are placed at his disposal and he commits a breach of contract by failing to take delivery.

(2) However, if the buyer is bound to take over the goods at a place other than a place of business of the seller, the risk passes when delivery is due and the buyer is aware of the fact that the goods are placed at his disposal at that place.

(3) If the contract relates to goods not then identified, the goods are considered not to be placed at the disposal of the buyer until they are clearly identified to the contract.

Article 70

If the seller has committed a fundamental breach of contract, articles 67, 68 and 69 do not impair the remedies available to the buyer on account of the breach.

Article 67

1) Lorsque le contrat de vente implique un transport des marchandises et que le vendeur n'est pas tenu de les remettre en un lieu déterminé, les risques sont transférés à l'acheteur à partir de la remise des marchandises au premier transporteur pour transmission à l'acheteur conformément au contrat de vente. Lorsque le vendeur est tenu de remettre les marchandises à un transporteur en un lieu déterminé, les risques ne sont pas transférés à l'acheteur tant que les marchandises n'ont pas été remises au transporteur en ce lieu. Le fait que le vendeur soit autorisé à conserver les documents représentatifs des marchandises n'affecte pas le transfert des risques.

2) Cependant, les risques ne sont pas transférés à l'acheteur tant que les marchandises n'ont pas été clairement identifiées aux fins du contrat, que ce soit par l'apposition d'un signe distinctif sur les marchandises, par des documents de transport, par un avis donné à l'acheteur ou par tout autre moyen.

Article 68

En ce qui concerne les marchandises vendues en cours de transport, les risques sont transférés à l'acheteur à partir du moment où le contrat est conclu. Toutefois, si les circonstances l'impliquent, les risques sont à la charge de l'acheteur à compter du moment où les marchandises ont été remises au transporteur qui a émis les documents constatant le contrat de transport. Néanmoins, si, au moment de la conclusion du contrat de vente, le vendeur avait connaissance du fait que les marchandises avaient péri ou avaient été détériorées et qu'il n'en a pas informé l'acheteur, la perte ou la détérioration est à la charge du vendeur.

Article 69

1) Dans les cas non visés par les articles 67 et 68, les risques sont transférés à l'acheteur lorsqu'il retire les marchandises ou, s'il ne le fait pas en temps voulu, à partir du moment où les marchandises sont mises à sa disposition et où il commet une contravention au contrat en n'en prenant pas livraison.

2) Cependant, si l'acheteur est tenu de retirer les marchandises en un lieu autre qu'un établissement du vendeur, les risques sont transférés lorsque la livraison est due et que l'acheteur sait que les marchandises sont mises à sa disposition en ce lieu.

3) Si la vente porte sur des marchandises non encore individualisées, les marchandises ne sont réputées avoir été mises à la disposition de l'acheteur que lorsqu'elles ont été clairement identifiées aux fins du contrat.

Article 70

Si le vendeur a commis une contravention essentielle au contrat, les dispositions des articles 67, 68 et 69 ne portent pas atteinte aux moyens dont l'acheteur dispose en raison de cette contravention.

CHAPTER V

PROVISIONS COMMON TO THE OBLIGATIONS OF THE SELLER
AND OF THE BUYERSection I. *Anticipatory breach and instalment contracts**Article 71*

(1) A party may suspend the performance of his obligations if, after the conclusion of the contract, it becomes apparent that the other party will not perform a substantial part of his obligations as a result of:

- (a) a serious deficiency in his ability to perform or in his creditworthiness; or
- (b) his conduct in preparing to perform or in performing the contract.

(2) If the seller has already dispatched the goods before the grounds described in the preceding paragraph become evident, he may prevent the handing over of the goods to the buyer even though the buyer holds a document which entitles him to obtain them. The present paragraph relates only to the rights in the goods as between the buyer and the seller.

(3) A party suspending performance, whether before or after dispatch of the goods, must immediately give notice of the suspension to the other party and must continue with performance if the other party provides adequate assurance of his performance.

Article 72

(1) If prior to the date for performance of the contract it is clear that one of the parties will commit a fundamental breach of contract, the other party may declare the contract avoided.

(2) If time allows, the party intending to declare the contract avoided must give reasonable notice to the other party in order to permit him to provide adequate assurance of his performance.

(3) The requirements of the preceding paragraph do not apply if the other party has declared that he will not perform his obligations.

Article 73

(1) In the case of a contract for delivery of goods by instalments, if the failure of one party to perform any of his obligations in respect of any instalment constitutes a fundamental breach of contract with respect to that instalment, the other party may declare the contract avoided with respect to that instalment.

(2) If one party's failure to perform any of his obligations in respect of any instalment gives the other party good grounds to conclude that a fundamental breach of contract will occur with respect to future instalments, he may declare the contract avoided for the future, provided that he does so within a reasonable time.

CHAPITRE V

DISPOSITIONS COMMUNES AUX OBLIGATIONS DU VENDEUR ET DE L'ACHETEUR

Section I. *Contravention anticipée et contrats à livraisons successives.*

Article 71

1) Une partie peut différer l'exécution de ses obligations lorsqu'il apparaît, après la conclusion du contrat, que l'autre partie n'exécutera pas une partie essentielle de ses obligations du fait :

- a) d'une grave insuffisance dans la capacité d'exécution de cette partie ou sa solvabilité; ou
- b) de la manière dont elle s'apprête à exécuter ou exécute le contrat.

2) Si le vendeur a déjà expédié les marchandises lorsque se révèlent les raisons prévues au paragraphe précédent, il peut s'opposer à ce que les marchandises soient remises à l'acheteur, même si celui-ci détient un document lui permettant de les obtenir. Le présent paragraphe ne concerne que les droits respectifs du vendeur et de l'acheteur sur les marchandises.

3) La partie qui diffère l'exécution, avant ou après l'expédition des marchandises, doit adresser immédiatement une notification à cet effet à l'autre partie, et elle doit procéder à l'exécution si l'autre partie donne des assurances suffisantes de la bonne exécution de ses obligations.

Article 72

1) Si, avant la date de l'exécution du contrat, il est manifeste qu'une partie commettra une contravention essentielle au contrat, l'autre partie peut déclarer celui-ci résolu.

2) Si elle dispose du temps nécessaire, la partie qui a l'intention de déclarer le contrat résolu doit le notifier à l'autre partie dans des conditions raisonnables pour lui permettre de donner des assurances suffisantes de la bonne exécution de ses obligations.

3) Les dispositions du paragraphe précédent ne s'appliquent pas si l'autre partie a déclaré qu'elle n'exécuterait pas ses obligations.

Article 73

1) Dans les contrats à livraisons successives, si l'inexécution par l'une des parties d'une obligation relative à une livraison constitue une contravention essentielle au contrat en ce qui concerne cette livraison, l'autre partie peut déclarer le contrat résolu pour ladite livraison.

2) Si l'inexécution par l'une des parties d'une obligation relative à une livraison donne à l'autre partie de sérieux raisons de penser qu'il y aura contravention essentielle au contrat en ce qui concerne des obligations futures, elle peut déclarer le contrat résolu pour l'avenir, à condition de le faire dans un délai raisonnable.

(3) A buyer who declares the contract avoided in respect of any delivery may, at the same time, declare it avoided in respect of deliveries already made or of future deliveries if, by reason of their interdependence, those deliveries could not be used for the purpose contemplated by the parties at the time of the conclusion of the contract.

Section II. *Damages*

Article 74

Damages for breach of contract by one party consist of a sum equal to the loss, including loss of profit, suffered by the other party as a consequence of the breach. Such damages may not exceed the loss which the party in breach foresaw or ought to have foreseen at the time of the conclusion of the contract, in the light of the facts and matters of which he then knew or ought to have known, as a possible consequence of the breach of contract.

Article 75

If the contract is avoided and if, in a reasonable manner and within a reasonable time after avoidance, the buyer has bought goods in replacement or the seller has resold the goods, the party claiming damages may recover the difference between the contract price and the price in the substitute transaction as well as any further damages recoverable under article 74.

Article 76

(1) If the contract is avoided and there is a current price for the goods, the party claiming damages may, if he has not made a purchase or resale under article 75, recover the difference between the price fixed by the contract and the current price at the time of avoidance as well as any further damages recoverable under article 74. If, however, the party claiming damages has avoided the contract after taking over the goods, the current price at the time of such taking over shall be applied instead of the current price at the time of avoidance.

(2) For the purposes of the preceding paragraph, the current price is the price prevailing at the place where delivery of the goods should have been made or, if there is no current price at that place, the price at such other place as serves as a reasonable substitute, making due allowance for differences in the cost of transporting the goods.

Article 77

A party who relies on a breach of contract must take such measures as are reasonable in the circumstances to mitigate the loss, including loss of profit, resulting from the breach. If he fails to take such measures, the party in breach may claim a reduction in the damages in the amount by which the loss should have been mitigated.

3) L'acheteur qui déclare le contrat résolu pour une livraison peut, en même temps, le déclarer résolu pour les livraisons déjà reçues ou pour les livraisons futures si, en raison de leur connexité, ces livraisons ne peuvent être utilisées aux fins envisagées par les parties au moment de la conclusion du contrat.

Section II. *Dommages-intérêts.*

Article 74

Les dommages-intérêts pour une contravention au contrat commise par une partie sont égaux à la perte subie et au gain manqué par l'autre partie par suite de la contravention. Ces dommages-intérêts ne peuvent être supérieurs à la perte subie et au gain manqué que la partie en défaut avait prévu ou aurait dû prévoir au moment de la conclusion du contrat, en considérant les faits dont elle avait connaissance ou aurait dû avoir connaissance, comme étant des conséquences possibles de la contravention au contrat.

Article 75

Lorsque le contrat est résolu et que, d'une manière raisonnable et dans un délai raisonnable après la résolution, l'acheteur a procédé à un achat de remplacement ou le vendeur à une vente compensatoire, la partie qui demande des dommages-intérêts peut obtenir la différence entre le prix du contrat et le prix de l'achat de remplacement ou de la vente compensatoire ainsi que tous autres dommages-intérêts qui peuvent être dus en vertu de l'article 74.

Article 76

1) Lorsque le contrat est résolu et que les marchandises ont un prix courant, la partie qui demande des dommages-intérêts peut, si elle n'a pas procédé à un achat de remplacement ou à une vente compensatoire au titre de l'article 75, obtenir la différence entre le prix fixé dans le contrat et le prix courant au moment de la résolution ainsi que tous autres dommages-intérêts qui peuvent être dus au titre de l'article 74. Néanmoins, si la partie qui demande des dommages-intérêts a déclaré le contrat résolu après avoir pris possession des marchandises, c'est le prix courant au moment de la prise de possession qui est applicable et non pas le prix courant au moment de la résolution.

2) Aux fins du paragraphe précédent, le prix courant est celui du lieu où la livraison des marchandises aurait dû être effectuée ou, à défaut de prix courant en ce lieu, le prix courant pratiqué en un autre lieu qu'il apparaît raisonnable de prendre comme lieu de référence, en tenant compte des différences dans les frais de transport des marchandises.

Article 77

La partie qui invoque la contravention au contrat doit prendre les mesures raisonnables, eu égard aux circonstances, pour limiter la perte, y compris le gain manqué, résultant de la contravention. Si elle néglige de le faire, la partie défaut peut demander une réduction des dommages-intérêts égale au montant de la perte qui aurait dû être évitée.

Section III. *Interest*

Article 78

If a party fails to pay the price or any other sum that is in arrears, the other party is entitled to interest on it, without prejudice to any claim for damages recoverable under article 74.

Section IV. *Exemptions*

Article 79

(1) A party is not liable for a failure to perform any of his obligations if he proves that the failure was due to an impediment beyond his control and that he could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences.

(2) If the party's failure is due to the failure by a third person whom he has engaged to perform the whole or a part of the contract, that party is exempt from liability only if:

(a) he is exempt under the preceding paragraph; and

(b) the person whom he has so engaged would be so exempt if the provisions of that paragraph were applied to him.

(3) The exemption provided by this article has effect for the period during which the impediment exists.

(4) The party who fails to perform must give notice to the other party of the impediment and its effect on his ability to perform. If the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, he is liable for damages resulting from such non-receipt.

(5) Nothing in this article prevents either party from exercising any right other than to claim damages under this Convention.

Article 80

A party may not rely on a failure of the other party to perform, to the extent that such failure was caused by the first party's act or omission.

Section V. *Effects of avoidance*

Article 81

(1) Avoidance of the contract releases both parties from their obligations under it, subject to any damages which may be due. Avoidance does not affect any provision of the contract for the settlement of disputes or any other provision of the contract governing the rights and obligations of the parties consequent upon the avoidance of the contract.

(2) A party who has performed the contract either wholly or in part may claim restitution from the other party of whatever the first party has supplied or paid under the contract. If both parties are bound to make restitution, they must do so concurrently.

Section III. *Intérêts.*

Article 78

Si une partie ne paie pas le prix ou toute autre somme due, l'autre partie a droit à des intérêts sur cette somme, sans préjudice des dommages-intérêts qu'elle serait fondée à demander en vertu de l'article 74.

Section IV. *Exonération.*

Article 79

1) Une partie n'est pas responsable de l'inexécution de l'une quelconque de ses obligations si elle prouve que cette inexécution est due à un empêchement indépendant de sa volonté et que l'on ne pouvait raisonnablement attendre d'elle qu'elle le prenne en considération au moment de la conclusion du contrat, qu'elle le prévienne ou le surmonte ou qu'elle en prévienne ou surmonte les conséquences.

2) Si l'inexécution par une partie est due à l'inexécution par un tiers qu'elle a chargé d'exécuter tout ou partie du contrat, cette partie n'est exonérée de sa responsabilité que dans le cas :

- a) où elle l'est en vertu des dispositions du paragraphe précédent; et
- b) où le tiers serait lui aussi exonéré si les dispositions de ce paragraphe lui étaient appliquées.

3) L'exonération prévue par le présent article produit effet pendant la durée de l'empêchement.

4) La partie qui n'a pas exécuté doit avertir l'autre partie de l'empêchement et de ses effets sur sa capacité d'exécuter. Si l'avertissement n'arrive pas à destination dans un délai raisonnable à partir du moment où la partie qui n'a pas exécuté a connu ou aurait dû connaître l'empêchement, celle-ci est tenue à des dommages-intérêts du fait de ce défaut de réception.

5) Les dispositions du présent article n'interdisent pas à une partie d'exercer tous ses droits autres que celui d'obtenir des dommages-intérêts en vertu de la présente Convention.

Article 80

Une partie ne peut pas se prévaloir d'une inexécution par l'autre partie dans la mesure où cette inexécution est due à un acte ou à une omission de sa part.

Section V. *Effets de la résolution.*

Article 81

1) La résolution du contrat libère les deux parties de leurs obligations, sous réserve des dommages-intérêts qui peuvent être dus. Elle n'a pas d'effet sur les stipulations du contrat relatives au règlement des différends ou aux droits et obligations des parties en cas de résolution.

2) La partie qui a exécuté le contrat totalement ou partiellement peut réclamer restitution à l'autre partie de ce qu'elle a fourni ou payé en exécution du contrat. Si les deux parties sont tenues d'effectuer des restitutions, elles doivent y procéder simultanément.

Article 82

(1) The buyer loses the right to declare the contract avoided or to require the seller to deliver substitute goods if it is impossible for him to make restitution of the goods substantially in the condition in which he received them.

(2) The preceding paragraph does not apply:

- (a) if the impossibility of making restitution of the goods or of making restitution of the goods substantially in the condition in which the buyer received them is not due to his act or omission;
- (b) if the goods or part of the goods have perished or deteriorated as a result of the examination provided for in article 38; or
- (c) if the goods or part of the goods have been sold in the normal course of business or have been consumed or transformed by the buyer in the course of normal use before he discovered or ought to have discovered the lack of conformity.

Article 83

A buyer who has lost the right to declare the contract avoided or to require the seller to deliver substitute goods in accordance with article 82 retains all other remedies under the contract and this Convention.

Article 84

(1) If the seller is bound to refund the price, he must also pay interest on it, from the date on which the price was paid.

(2) The buyer must account to the seller for all benefits which he has derived from the goods or part of them:

- (a) if he must make restitution of the goods or part of them; or
- (b) if it is impossible for him to make restitution of all or part of the goods or to make restitution of all or part of the goods substantially in the condition in which he received them, but he has nevertheless declared the contract avoided or required the seller to deliver substitute goods.

*Section VI. Preservation of the goods**Article 85*

If the buyer is in delay in taking delivery of the goods or, where payment of the price and delivery of the goods are to be made concurrently, if he fails to pay the price, and the seller is either in possession of the goods or otherwise able to control their disposition, the seller must take such steps as are reasonable in the circumstances to preserve them. He is entitled to retain them until he has been reimbursed his reasonable expenses by the buyer.

Article 82

1) L'acheteur perd le droit de déclarer le contrat résolu ou d'exiger du vendeur la livraison de marchandises de remplacement s'il lui est impossible de restituer les marchandises dans un état sensiblement identique à celui dans lequel il les a reçues.

2) Le paragraphe précédent ne s'applique pas :

- a) si l'impossibilité de restituer les marchandises ou de les restituer dans un état sensiblement identique à celui dans lequel l'acheteur les a reçues n'est pas due à un acte ou à une omission de sa part;
- b) si les marchandises ont péri ou sont détériorées, en totalité ou en partie, en conséquence de l'examen prescrit à l'article 38; ou
- c) si l'acheteur, avant le moment où il a constaté ou aurait dû constater le défaut de conformité, a vendu tout ou partie des marchandises dans le cadre d'une opération commerciale normale ou a consommé ou transformé tout ou partie des marchandises conformément à l'usage normal.

Article 83

L'acheteur qui a perdu le droit de déclarer le contrat résolu ou d'exiger du vendeur la livraison de marchandises de remplacement en vertu de l'article 82 conserve le droit de se prévaloir de tous les autres moyens qu'il tient du contrat et de la présente Convention.

Article 84

1) Si le vendeur est tenu de restituer le prix, il doit aussi payer des intérêts sur le montant de ce prix à compter du jour du paiement.

2) L'acheteur doit au vendeur l'équivalent de tout profit qu'il a retiré des marchandises ou d'une partie de celles-ci :

- a) lorsqu'il doit les restituer en tout ou en partie; ou
- b) lorsqu'il est dans l'impossibilité de restituer tout ou partie des marchandises ou de les restituer en tout ou en partie dans un état sensiblement identique à celui dans lequel il les a reçues et que néanmoins il a déclaré le contrat résolu ou a exigé du vendeur la livraison de marchandises de remplacement.

Section VI. *Conservation des marchandises.*

Article 85

Lorsque l'acheteur tarde à prendre livraison des marchandises ou qu'il n'en paie pas le prix, alors que le paiement du prix et la livraison doivent se faire simultanément, le vendeur, s'il a les marchandises en sa possession ou sous son contrôle, doit prendre les mesures raisonnables, eu égard aux circonstances, pour en assurer la conservation. Il est fondé à les retenir jusqu'à ce qu'il ait obtenu de l'acheteur le remboursement de ses dépenses raisonnables.

Article 86

(1) If the buyer has received the goods and intends to exercise any right under the contract or this Convention to reject them, he must take such steps to preserve them as are reasonable in the circumstances. He is entitled to retain them until he has been reimbursed his reasonable expenses by the seller.

(2) If goods dispatched to the buyer have been placed at his disposal at their destination and he exercises the right to reject them, he must take possession of them on behalf of the seller, provided that this can be done without payment of the price and without unreasonable inconvenience or unreasonable expense. This provision does not apply if the seller or a person authorized to take charge of the goods on his behalf is present at the destination. If the buyer takes possession of the goods under this paragraph, his rights and obligations are governed by the preceding paragraph.

Article 87

A party who is bound to take steps to preserve the goods may deposit them in a warehouse of a third person at the expense of the other party provided that the expense incurred is not unreasonable.

Article 88

(1) A party who is bound to preserve the goods in accordance with article 85 or 86 may sell them by any appropriate means if there has been an unreasonable delay by the other party in taking possession of the goods or in taking them back or in paying the price or the cost of preservation, provided that reasonable notice of the intention to sell has been given to the other party.

(2) If the goods are subject to rapid deterioration or their preservation would involve unreasonable expense, a party who is bound to preserve the goods in accordance with article 85 or 86 must take reasonable measures to sell them. To the extent possible he must give notice to the other party of his intention to sell.

(3) A party selling the goods has the right to retain out of the proceeds of sale an amount equal to the reasonable expenses of preserving the goods and of selling them. He must account to the other party for the balance.

PART IV

FINAL PROVISIONS

Article 89

The Secretary-General of the United Nations is hereby designated as the depositary for this Convention.

Article 86

1) Si l'acheteur a reçu les marchandises et entend exercer tout droit de les refuser en vertu du contrat ou de la présente Convention, il doit prendre les mesures raisonnables, eu égard aux circonstances, pour en assurer la conservation. Il est fondé à les retenir jusqu'à ce qu'il ait obtenu du vendeur le remboursement de ses dépenses raisonnables.

2) Si les marchandises expédiées à l'acheteur ont été mises à sa disposition à leur lieu de destination et si l'acheteur exerce le droit de les refuser, il doit en prendre possession pour le compte du vendeur à condition de pouvoir le faire sans paiement du prix et sans inconvénient ou frais déraisonnables. Cette disposition ne s'applique pas si le vendeur est présent au lieu de destination ou s'il y a en ce lieu une personne ayant qualité pour prendre les marchandises en charge pour son compte. Les droits et obligations de l'acheteur qui prend possession des marchandises en vertu du présent paragraphe sont régis par le paragraphe précédent.

Article 87

La partie qui est tenue de prendre des mesures pour assurer la conservation des marchandises peut les déposer dans les magasins d'un tiers aux frais de l'autre partie, à condition que les frais qui en résultent ne soient pas déraisonnables.

Article 88

1) La partie qui doit assurer la conservation des marchandises conformément aux articles 85 ou 86 peut les vendre par tous moyens appropriés si l'autre partie a apporté un retard déraisonnable à prendre possession des marchandises ou à les reprendre ou à payer le prix ou les frais de leur conservation, sous réserve de notifier à cette autre partie, dans des conditions raisonnables, son intention de vendre.

2) Lorsque les marchandises sont sujettes à une détérioration rapide ou lorsque leur conservation entraînerait des frais déraisonnables, la partie qui est tenue d'assurer la conservation des marchandises conformément aux articles 85 ou 86 doit raisonnablement s'employer à les vendre. Dans la mesure du possible, elle doit notifier à l'autre partie son intention de vendre.

3) La partie qui vend les marchandises a le droit de retenir sur le produit de la vente un montant égal aux frais raisonnables de conservation et de vente des marchandises. Elle doit le surplus à l'autre partie.

QUATRIÈME PARTIE**DISPOSITIONS FINALES***Article 89*

Le Secrétaire général de l'Organisation des Nations Unies est désigné comme dépositaire de la présente Convention.

Article 90

This Convention does not prevail over any international agreement which has already been or may be entered into and which contains provisions concerning the matters governed by this Convention, provided that the parties have their places of business in States parties to such agreement.

Article 91

(1) This Convention is open for signature at the concluding meeting of the United Nations Conference on Contracts for the International Sale of Goods and will remain open for signature by all States at the Headquarters of the United Nations, New York until 30 September 1981.

(2) This Convention is subject to ratification, acceptance or approval by the signatory States.

(3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.

(4) Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

Article 92

(1) A Contracting State may declare at the time of signature, ratification, acceptance, approval or accession that it will not be bound by Part II of this Convention or that it will not be bound by Part III of this Convention.

(2) A Contracting State which makes a declaration in accordance with the preceding paragraph in respect of Part II or Part III of this Convention is not to be considered a Contracting State within paragraph (1) of article 1 of this Convention in respect of matters governed by the Part to which the declaration applies.

Article 93

(1) If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

(2) These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

(3) If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party is located in that State, this place of business, for the purposes of this Convention, is considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.

Article 90

La présente Convention ne prévaut pas sur un accord international déjà conclu ou à conclure qui contient des dispositions concernant les matières régies par la présente Convention, à condition que les parties au contrat aient leur établissement dans les États parties à cet accord.

Article 91

1) La présente Convention sera ouverte à la signature à la séance de clôture de la Conférence des Nations Unies sur les contrats de vente internationale de marchandises et restera ouverte à la signature de tous les États au Siège de l'Organisation des Nations Unies, à New York, jusqu'au 30 septembre 1981.

2) La présente Convention est sujette à ratification, acceptation ou approbation par les États signataires.

3) La présente Convention sera ouverte à l'adhésion de tous les États qui ne sont pas signataires, à partir de la date à laquelle elle sera ouverte à la signature.

4) Les instruments de ratification, d'acceptation, d'approbation ou d'adhésion seront déposés auprès du Secrétaire général de l'Organisation des Nations Unies.

Article 92

1) Tout État contractant pourra, au moment de la signature, de la ratification, de l'acceptation, de l'approbation ou de l'adhésion, déclarer qu'il ne sera pas lié par la deuxième partie de la présente Convention ou qu'il ne sera pas lié par la troisième partie de la présente Convention.

2) Un État contractant qui fait, en vertu du paragraphe précédent, une déclaration à l'égard de la deuxième partie ou de la troisième partie de la présente Convention ne sera pas considéré comme étant un État contractant, au sens du paragraphe 1 de l'article premier de la Convention, pour les matières régies par la partie de la Convention à laquelle cette déclaration s'applique.

Article 93

1) Tout État contractant qui comprend deux ou plusieurs unités territoriales dans lesquelles, selon sa constitution, des systèmes de droit différents s'appliquent dans les matières régies par la présente Convention pourra, au moment de la signature, de la ratification, de l'acceptation, de l'approbation ou de l'adhésion, déclarer que la présente Convention s'appliquera à toutes ses unités territoriales ou seulement à l'une ou plusieurs d'entre elles et pourra à tout moment modifier cette déclaration en faisant une nouvelle déclaration.

2) Ces déclarations seront notifiées au depositaire et désigneront expressément les unités territoriales auxquelles la Convention s'applique.

3) Si, en vertu d'une déclaration faite conformément au présent article, la présente Convention s'applique à l'une ou plusieurs des unités territoriales d'un État contractant, mais non pas à toutes, et si l'établissement d'une partie au contrat est situé dans cet État, cet établissement sera considéré,

(4) If a Contracting State makes no declaration under paragraph (1) of this article, the Convention is to extend to all territorial units of that State.

Article 94

(1) Two or more Contracting States which have the same or closely related legal rules on matters governed by this Convention may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States. Such declarations may be made jointly or by reciprocal unilateral declarations.

(2) A Contracting State which has the same or closely related legal rules on matters governed by this Convention as one or more non-Contracting States may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States.

(3) If a State which is the object of a declaration under the preceding paragraph subsequently becomes a Contracting State, the declaration made will, as from the date on which the Convention enters into force in respect of the new Contracting State, have the effect of a declaration made under paragraph (1), provided that the new Contracting State joins in such declaration or makes a reciprocal unilateral declaration.

Article 95

Any State may declare at the time of the deposit of its instrument of ratification, acceptance, approval or accession that it will not be bound by subparagraph (1)(b) of article 1 of this Convention.

Article 96

A Contracting State whose legislation requires contracts of sale to be concluded in or evidenced by writing may at any time make a declaration in accordance with article 12 that any provision of article 11, article 29, or Part II of this Convention, that allows a contract of sale or its modification or termination by agreement or any offer, acceptance, or other indication of intention to be made in any form other than in writing, does not apply where any party has his place of business in that State.

Article 97

(1) Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.

(2) Declarations and confirmations of declarations are to be in writing and be formally notified to the depositary.

aux fins de la présente Convention, comme n'étant pas situé dans un État contractant, à moins qu'il ne soit situé dans une unité territoriale à laquelle la Convention s'applique.

4) Si un État contractant ne fait pas de déclaration en vertu du paragraphe 1 du présent article, la Convention s'appliquera à l'ensemble du territoire de cet État.

Article 94

1) Deux ou plusieurs États contractants qui, dans des matières régies par la présente Convention, appliquent des règles juridiques identiques ou voisines peuvent, à tout moment, déclarer que la Convention ne s'appliquera pas aux contrats de vente ou à leur formation lorsque les parties ont leur établissement dans ces États. De telles déclarations peuvent être faites conjointement ou être unilatérales et réciproques.

2) Un État contractant qui, dans des matières régies par la présente Convention, applique des règles juridiques identiques ou voisines de celles d'un ou de plusieurs États non contractants peut, à tout moment, déclarer que la Convention ne s'appliquera pas aux contrats de vente ou à leur formation lorsque les parties ont leur établissement dans ces États.

3) Lorsqu'un État à l'égard duquel une déclaration a été faite en vertu du paragraphe précédent devient par la suite un État contractant, la déclaration mentionnée aura, à partir de la date à laquelle la présente Convention entrera en vigueur à l'égard de ce nouvel État contractant, les effets d'une déclaration faite en vertu du paragraphe 1, à condition que le nouvel État contractant s'y associe ou fasse une déclaration unilatérale à titre réciproque.

Article 95

Tout État peut déclarer, au moment du dépôt de son instrument de ratification, d'acceptation, d'approbation ou d'adhésion, qu'il ne sera pas lié par l'alinéa b) du paragraphe 1 de l'article premier de la présente Convention.

Article 96

Tout État contractant dont la législation exige que les contrats de vente soient conclus ou constatés par écrit peut à tout moment déclarer, conformément à l'article 12, que toute disposition de l'article 11, de l'article 29 ou de la deuxième partie de la présente Convention autorisant une forme autre que la forme écrite pour la conclusion, la modification ou la résiliation amiable d'un contrat de vente, ou pour toute offre, acceptation ou autre manifestation d'intention, ne s'applique pas dès lors que l'une des parties a son établissement dans cet État.

Article 97

1) Les déclarations faites en vertu de la présente Convention lors de la signature sont sujettes à confirmation lors de la ratification, de l'acceptation ou de l'approbation.

2) Les déclarations, et la confirmation des déclarations, seront faites par écrit et formellement notifiées au dépositaire.

(3) A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of six months after the date of its receipt by the depositary. Reciprocal unilateral declarations under article 94 take effect on the first day of the month following the expiration of six months after the receipt of the latest declaration by the depositary.

(4) Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the depositary.

(5) A withdrawal of a declaration made under article 94 renders inoperative, as from the date on which the withdrawal takes effect, any reciprocal declaration made by another State under that article.

Article 98

No reservations are permitted except those expressly authorized in this Convention.

Article 99

(1) This Convention enters into force, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, including an instrument which contains a declaration made under article 92.

(2) When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the tenth instrument of ratification, acceptance, approval or accession, this Convention, with the exception of the Part excluded, enters into force in respect of that State, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

(3) A State which ratifies, accepts, approves or accedes to this Convention and is a party to either or both the Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Formation Convention) and the Convention relating to a Uniform Law on the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Sales Convention) shall at the same time denounce, as the case may be, either or both the 1964 Hague Sales Convention and the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

(4) A State party to the 1964 Hague Sales Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part II of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Sales Convention by notifying the Government of the Netherlands to that effect.

3) Les déclarations prendront effet à la date de l'entrée en vigueur de la présente Convention à l'égard de l'État déclarant. Cependant, les déclarations dont le dépositaire aura reçu notification formelle après cette date prendront effet le premier jour du mois suivant l'expiration d'un délai de six mois à compter de la date de leur réception par le dépositaire. Les déclarations unilatérales et réciproques faites en vertu de l'article 94 prendront effet le premier jour du mois suivant l'expiration d'une période de six mois après la date de la réception de la dernière déclaration par le dépositaire.

4) Tout État qui fait une déclaration en vertu de la présente Convention peut à tout moment la retirer par une notification formelle adressée par écrit au dépositaire. Ce retrait prendra effet le premier jour du mois suivant l'expiration d'une période de six mois après la date de réception de la notification par le dépositaire.

5) Le retrait d'une déclaration faite en vertu de l'article 94 rendra caduque, à partir de la date de sa prise d'effet, toute déclaration réciproque faite par un autre État en vertu de ce même article.

Article 98

Aucune réserve n'est autorisée autre que celles qui sont expressément autorisées par la présente Convention.

Article 99

1) La présente Convention entrera en vigueur, sous réserve des dispositions du paragraphe 6 du présent article, le premier jour du mois suivant l'expiration d'une période de douze mois après la date du dépôt du dixième instrument de ratification, d'acceptation, d'approbation ou d'adhésion, y compris tout instrument contenant une déclaration faite en vertu de l'article 92.

2) Lorsqu'un État ratifiera, acceptera ou approuvera la présente Convention ou y adhèrera après le dépôt du dixième instrument de ratification, d'acceptation, d'approbation ou d'adhésion, la Convention, à l'exception de la partie exclue, entrera en vigueur à l'égard de cet État, sous réserve des dispositions du paragraphe 6 du présent article, le premier jour du mois suivant l'expiration d'une période de douze mois après la date du dépôt de l'instrument de ratification, d'acceptation, d'approbation ou d'adhésion.

3) Tout État qui ratifiera, acceptera ou approuvera la présente Convention ou y adhèrera et qui est partie à la Convention portant loi uniforme sur la formation des contrats de vente internationale des objets mobiliers corporels faite à La Haye le 1^{er} juillet 1964 (Convention de La Haye de 1964 sur la formation) ou à la Convention portant loi uniforme sur la vente internationale des objets mobiliers corporels faite à La Haye le 1^{er} juillet 1964 (Convention de La Haye de 1964 sur la vente), ou à ces deux conventions, dénoncera en même temps, selon le cas, la Convention de La Haye de 1964 sur la vente ou la Convention de La Haye sur la formation, ou ces deux conventions, en adressant une notification à cet effet au Gouvernement néerlandais.

4) Tout État partie à la Convention de La Haye de 1964 sur la vente qui ratifiera, acceptera ou approuvera la présente Convention ou y adhèrera et qui déclarera ou aura déclaré en vertu de l'article 92 qu'il n'est pas lié par la deuxième partie de la Convention, dénoncera, au moment de la ratification, de l'acceptation, de l'approbation ou de l'adhésion, la Convention de La Haye de 1964 sur la vente en adressant une notification à cet effet au Gouvernement néerlandais.

(5) A State party to the 1964 Hague Formation Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part III of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

(6) For the purpose of this article, ratifications, acceptances, approvals and accessions in respect of this Convention by States parties to the 1964 Hague Formation Convention or to the 1964 Hague Sales Convention shall not be effective until such denunciations as may be required on the part of those States in respect of the latter two Conventions have themselves become effective. The depositary of this Convention shall consult with the Government of the Netherlands, as the depositary of the 1964 Conventions, so as to ensure necessary co-ordination in this respect.

Article 100

(1) This Convention applies to the formation of a contract only when the proposal for concluding the contract is made on or after the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Contracting State referred to in subparagraph (1)(b) of article 1.

(2) This Convention applies only to contracts concluded on or after the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Contracting State referred to in subparagraph (1)(b) of article 1.

Article 101

(1) A Contracting State may denounce this Convention, or Part II or Part III of the Convention, by a formal notification in writing addressed to the depositary.

(2) The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

DONE at Vienna, this eleventh day of April, one thousand nine hundred and eighty, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

5) Tout État partie à la Convention de La Haye de 1964 sur la vente qui ratifiera, acceptera ou approuvera la présente Convention ou y adhèrera et qui déclarera ou aura déclaré en vertu de l'article 92 qu'il n'est pas lié par la troisième partie de la Convention, dénoncera, au moment de la ratification, de l'acceptation, de l'approbation ou de l'adhésion, la Convention de La Haye de 1964 sur la formation en adressant une notification à cet effet au Gouvernement néerlandais.

6) Aux fins du présent article, les ratifications, acceptations, approbations et adhésions effectuées à l'égard de la présente Convention par des États parties à la Convention de La Haye de 1964 sur la formation ou à la Convention de La Haye de 1964 sur la vente ne prendront effet qu'à la date à laquelle les dénonciations éventuellement requises de la part desdits États à l'égard de ces deux conventions auront elles-mêmes pris effet. Le dépositaire de la présente Convention s'entendra avec le Gouvernement néerlandais, dépositaire des conventions de 1964, pour assurer la coordination nécessaire à cet égard.

Article 100

1) La présente Convention s'applique à la formation des contrats conclus à la suite d'une proposition intervenue après l'entrée en vigueur de la Convention à l'égard des États contractants visés à l'alinéa a) du paragraphe 1 de l'article premier ou de l'État contractant visé à l'alinéa b) du paragraphe 1 de l'article premier.

2) La présente Convention s'applique uniquement aux contrats conclus après son entrée en vigueur à l'égard des États contractants visés à l'alinéa a) du paragraphe 1 de l'article premier ou de l'État contractant visé à l'alinéa b) du paragraphe 1 de l'article premier.

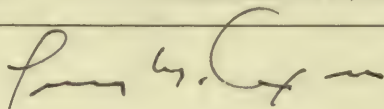
Article 101

1) Tout État contractant pourra dénoncer la présente Convention, ou la deuxième ou la troisième partie de la Convention, par une notification formelle adressée par écrit au dépositaire.

2) La dénonciation prendra effet le premier jour du mois suivant l'expiration d'une période de douze mois après la date de réception de la notification par le dépositaire. Lorsqu'une période plus longue pour la prise d'effet de la dénonciation est spécifiée dans la notification, la dénonciation prendra effet à l'expiration de la période en question après la date de réception de la notification.

FAIT à Vienne, le onze avril mil neuf cent quatre-vingt, en un seul original, dont les textes anglais, arabe, chinois, espagnol, français et russe sont également authentiques.

EN FOI DE QUOI les plénipotentiaires soussignés, dûment autorisés par leurs gouvernements respectifs, ont signé la présente Convention.




Bill 98

(Chapter 24
Statutes of Ontario, 1988)

An Act to amend the Public Transportation and Highway Improvement Act

The Hon. E. Fulton
Minister of Transportation



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	February 10th, 1988
<i>2nd Reading</i>	May 25th, 1988
<i>3rd Reading</i>	May 30th, 1988
<i>Royal Assent</i>	June 1st, 1988

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Bill 98

1988

**An Act to amend the Public Transportation and
Highway Improvement Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (e) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (e) "highway", includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle or any other structure incidental thereto, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

2. Section 22 of the said Act is amended by adding thereto the following subsections:

- (3) The Minister may enter into an agreement with any municipality, including a district, metropolitan or regional municipality, with respect to any matter in relation to the acquisition, establishment, extension, improvement or construction of an intercity passenger facility to serve any one or more areas in Ontario and the Minister may direct payment out of moneys appropriated therefor by the Legislature to the municipality for such purposes.

Intercity
passenger
service

- (4) Any municipality may enter into an agreement under this section.

Power to
municipalities

3. Subsection 24 (2) of the said Act is amended by striking out "section 30" in the sixth line and inserting in lieu thereof "section 33".

4. Clause 31 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) shall construct or change the use of any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway, other than a controlled-access highway,

5. Subsection 33 (3) of the said Act is amended by striking out "guard" in the third line and inserting in lieu thereof "guide".

6.—(1) Subsection 34 (1) of the said Act is repealed and the following substituted therefor:

Definitions

- (1) In this section,

"centre point of an intersection" is the point where the centre line of the through part or parts of the King's Highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the King's Highway;

"portable sign" means a sign or advertising device that is not permanently attached to the ground, a building or a structure or that is designed to be moved from place to place.

(2) Subsection 34 (2) of the said Act is amended by striking out "or" at the end of clause (c) and by adding thereto the following clauses:

- (e) sell, offer for sale or display produce, goods or merchandise upon the King's Highway; or
- (f) construct or use any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway.

(3) Section 34 of the said Act is amended by adding thereto the following subsection:

Direction to
stop sales,
etc.

(2a) The Minister may direct any person to stop selling, offering for sale or displaying any produce, goods or merchandise within 45 metres of any limit of the King's Highway or within 180 metres of the centre point of an intersection and every person to whom such direction is given shall forthwith comply with the direction.

(4) Subsection 34 (5) of the said Act is repealed and the following substituted therefor:

(5) The Minister may direct any owner of land,

Direction to
remove, etc.

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub or hedge placed, erected or altered;
- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed; or
- (c) to close up any private road, entranceway, gate or other structure or facility constructed or used,

in contravention of subsection (2).

(5a) Clause (5) (b) does not apply to a portable sign.

Exception

(5b) Where a portable sign is displayed contrary to subsection (2), the Minister may direct,

Direction to
remove

- (a) the owner of the portable sign, if the Minister is able to ascertain who and where the owner is;
- (b) the person on whose behalf the portable sign is displayed, if clause (a) does not apply but the Minister is able to ascertain who and where that person is; or
- (c) the owner of the land on which the portable sign is displayed, if clauses (a) and (b) do not apply,

to remove the sign.

(5c) Where a sign in respect of which a direction is given under subsection (5b) is not removed within five days after the direction is given, the Minister may in writing authorize any person to enter upon the land involved and to do whatever is necessary to remove the sign.

Removal of
sign

(5) Subsection 34 (6) of the said Act is amended by striking out "notice" in the first line and inserting in lieu thereof "direction" and by striking out "subsection (5)" in the first line and inserting in lieu thereof "subsection (2a), (5), (5b), 38 (5) or 38 (5b)".

(6) Subsection 34 (7) of the said Act is repealed and the following substituted therefor:

Failure to
comply with
direction

(7) Where a direction given under subsection (5) or 38 (7) is not complied with within thirty days after its receipt, the Minister may in writing authorize any person to enter upon the land involved to do whatever is necessary to comply with the direction.

No liability
for damages

(7a) An authorization under subsection (5c), (7), 38 (5c) or 38 (7) is authority to the person named therein to enter on the land described therein and to remove the sign as directed and neither the Minister nor that person is liable for any damages that may be caused in effecting the removal.

(7) Subsection 34 (8) of the said Act is repealed and the following substituted therefor:

Offence

(8) Every person who contravenes subsection (2), (3), 38 (2) or 38 (3) or who fails to comply with a direction given under subsection (2a), (5), (5b), 38 (5) or 38 (5b) is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500 for a first offence and not less than \$200 and not more than \$1,000 for any subsequent offence.

(8) Subsection 34 (9) of the said Act is amended by striking out "notice" in the first line and inserting in lieu thereof "direction".

7.—(1) Subsection 38 (1) of the said Act is repealed and the following substituted therefor:

Definitions

(1) In this section,

"centre point of an intersection" is the point where the centre line of the through part or parts of a controlled-access highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the controlled-access highway;

"portable sign" means a sign or advertising device that is not permanently attached to the ground, a building or a structure or that is designed to be moved from place to place.

(2) Subsection 38 (5) of the said Act is amended by striking out "give notice to the owner of any land requiring him" in the first and second lines and inserting in lieu thereof "direct any owner of land".

(3) Section 38 of the said Act is amended by adding thereto the following subsections:

(5a) Clause (5) (b) does not apply to a portable sign.

Exception

(5b) Where a portable sign is displayed contrary to the provisions of subsection (2), the Minister may direct,

Direction to remove

- (a) the owner of the portable sign, if the Minister is able to ascertain who and where the owner is;
- (b) the person on whose behalf the portable sign is displayed, if clause (a) does not apply but the Minister is able to ascertain who and where that person is; or
- (c) the owner of the land on which the portable sign is displayed, if clauses (a) and (b) do not apply,

to remove the sign.

(5c) Where a sign in respect of which a direction is given under subsection (5b) is not removed within five days after the direction is given, the Minister may in writing authorize any person to enter upon the land involved and to do whatever is necessary to remove the sign.

Removal of sign

(4) Subsections 38 (6), (7) and (8) of the said Act are repealed.

(5) Subsection 38 (9) of the said Act is amended by striking out "notice" in the first line and inserting in lieu thereof "direction".

8. Section 45 of the said Act is repealed and the following substituted therefor:

45.—(1) Where a county road system is established under this Part, the county council shall,

County road system committee

- (a) act as a committee of the whole; or
- (b) appoint by by-law from three to ten residents of the county, who need not be members of the council, to constitute a committee,

to direct the work to be done on the county road system.

(2) If a committee is constituted under clause (1) (b), the council, subject to subsection (3), may by by-law,

Idem

- (a) regulate the term of office, reappointment, removal from office and the filling of any vacancy; and

- (b) assign executive powers considered appropriate for the effective operation of the committee.

Staggered
terms

- (3) A committee constituted under clause (1) (b) shall be set up so that,

- (a) other than a committee consisting of four members, not less than one-third of the members are appointed to hold office for a term of three years, not less than one-third of the members are appointed to hold office for a term of two years and the remaining members are appointed to hold office for a term of one year; or
- (b) for a committee consisting of four members, one member is appointed to hold office for a term of three years, one member is appointed to hold office for a term of two years and two members are appointed to hold office for a term of one year,

and thereafter all members shall be appointed for a term of three years.

Re-
appointment

- (4) Every member of the committee is eligible for reappointment upon the expiry of his or her term of office.

Warden
member

- (5) The warden of the county is *ex officio* a member of the committee and may sit and vote thereon.

9. Section 47 of the said Act is repealed and the following substituted therefor:

Payment,
how to be
made

47. No money shall be disbursed pertaining to the county road system except by the county treasurer on the certificate of the county road superintendent approved by the county council and certified in writing by the warden of the county or by the committee appointed to direct the work to be done on the county road system as certified in writing by the chairman thereof.

10. Subsection 53 (3) of the said Act is repealed.

11.—(1) Subsection 63 (1) of the said Act is amended by striking out “and” at the end of clause (a) and by adding thereto the following clauses:

- (c) the construction or alteration of any private road, entranceway, gate or other structure or facility that permits access to a road; and

- (d) any change in use of any private road, entranceway, gate or other structure or facility that permits access to a road.

(2) Subsection 63 (2) of the said Act is repealed and the following substituted therefor:

(2) A by-law passed under this section may provide for the issuing of a permit for any of the acts that may be regulated under this section and may prescribe the form, terms and conditions of the permit and the fees to be paid for it, and may prescribe penalties for contravention of the by-law. Permits

12. Section 78 of the said Act is repealed.

13. Subsection 90 (1) of the said Act is amended by striking out "or village in a territorial district or of a" in the third line and inserting in lieu thereof "village or".

14.—(1) This Act, except section 10, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 10 comes into force on a day to be named by proclamation of the Lieutenant Governor. Idem

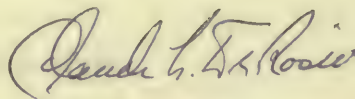
15. The short title of this Act is the *Public Transportation and Highway Improvement Amendment Act, 1988.* Short title

Bill 100

(Chapter 46
Statutes of Ontario, 1988)

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	February 11th, 1988
<i>2nd Reading</i>	June 1st, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988



Bill 100

1988

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 213 of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed.

2.—(1) Subsection 214 (2) of the said Act is repealed and the following substituted therefor:

(2) Where, in respect of any year, the council of a municipality is of the opinion that the apportionment made under a regulation made under subsection (1) is incorrect because of, Review

- (a) an error or omission in the determination of the amount of the assessment of one or more municipalities or localities in the school division;
- (b) an error or omission in the application of a factor used to equalize the assessment of one or more municipalities or localities in the school division;
- (c) an error or omission in a calculation; or
- (d) the failure to apply one or more provisions of the regulation,

the council may apply to the divisional board within thirty days after receiving the apportionment from the divisional board for a review to determine the correct proportion of the sums required for public school purposes and for secondary school purposes that each municipality or part thereof or locality shall bear in each year.

(2) Subsection 214 (5) of the said Act is repealed and the following substituted therefor:

(5) Upon receipt of the application referred to in subsection (2), the divisional board shall direct its chief executive Meeting

officer to call a meeting of the treasurer of the county or the regional municipality and the treasurers of the municipalities within the school division.

(3) Subsection 214 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

Review by
treasurers

(6) At the meeting, the treasurers shall review and, where appropriate, revise the proportion of the amounts to be raised by each municipality or part thereof or locality in accordance with the regulation.

Interpretation

(7) For the purposes of subsection (5), in the case of The Muskoka Board of Education, the treasurer of the county or regional municipality shall be the treasurer of The District Municipality of Muskoka.

Decision

(8) The treasurers shall make their decision in writing and shall file a copy of the decision with the chief executive officer of the divisional board.

Idem

(9) Upon receipt of the decision, the chief executive officer shall forthwith send a copy of the decision to the clerk of each municipality by registered mail.

Decision final

(10) The decision of the treasurers is final.

Effect of
decision

(11) The decision of the treasurers is effective only in respect of the year for which the decision is made.

Apportion-
ment where
unorganized
territory
becomes part
of school
division

(12) Where, in any year, territory without municipal organization is included in a school division and property therein is assessed for the first time for the purpose of levying rates and collecting taxes for school purposes, such assessment shall, for the purposes of apportionment of costs for that year under this section, be the assessment on which taxes are levied in that year and an application for a review under subsection (2) may be made within thirty days after receiving the apportionment from the divisional board.

Territory
without
municipal
organization

(13) In territory without municipal organization that is deemed to be a district municipality in a school division, five ratepayers resident in such district municipality have the same powers as the council of a municipality under subsection (2) and may appoint one ratepayer to act as treasurer for the purposes of this section.

(14) Where the ratepayers cannot agree as to who shall be the treasurer, the chief executive officer of the divisional board shall designate a person to act as treasurer. Idem

(15) An application for a review under this section does not relieve the council of a municipality of its duty to levy and collect the amounts requisitioned by the board as apportioned to the municipality. Levy notwithstanding review

(16) Where, in respect of any year, a municipality in a school division has, under section 215, levied the amounts that were requisitioned by the divisional board and the amounts are altered as a result of the decision of the treasurers, the provisions of subsections 219 (2) and (3) apply in respect of the alteration. Adjustment where apportionment altered

(17) Subsections (2) to (16) do not apply to an area municipality in The Regional Municipality of Sudbury, The Regional Municipality of Haldimand-Norfolk or to a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*. Non-application
R.S.O. 1980,
c. 302

3.—(1) Subsection 215 (3) of the said Act is amended by striking out “subsection 213 (1)” in the fourth and fifth lines and inserting in lieu thereof “the regulation made under subsection 214 (1)”.

(2) Clause 215 (4) (b) of the said Act is amended by striking out “subsection 213 (1)” in the fourth line and inserting in lieu thereof “the regulation made under subsection 214 (1)”.

4.—(1) Where an apportionment is made by a divisional board in the year 1988 prior to the date that this Act comes into force and a council of a municipality is of the opinion that the apportionment imposes an undue burden on the ratepayers of the municipality or part thereof, and the council applies to the divisional board for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes, the application shall be dealt with as an application for a review as if sections 1, 2 and 3 of this Act were in force. Transition

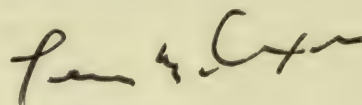
(2) Subsection (1) applies to an application made by five ratepayers resident in a deemed district municipality in territory without municipal organization who have the same powers as a council of a municipality under subsection 214 (13) of the *Education Act* as re-enacted by subsection 2 (3) of this Act. Idem
R.S.O. 1980,
c. 129

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Education Amendment Act, 1988*.

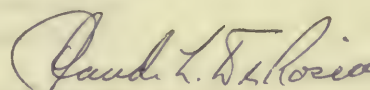


Bill 106

(Chapter 33
Statutes of Ontario, 1988)

An Act to amend the Municipal Elections Act and the Municipal Act

The Hon. J. Eakins
Minister of Municipal Affairs



**CLERK
LEGISLATIVE ASSEMBLY**

<i>1st Reading</i>	April 5th, 1988
<i>2nd Reading</i>	May 4th, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988



Bill 106

1988

**An Act to amend the
Municipal Elections Act and the Municipal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

14a. No corporation is eligible to vote in any election.

Corporation
not eligible
to vote

2. Subsection 25 (6) of the said Act is repealed and the following substituted therefor:

(6) Every registered candidate, as defined in section 121 or section 138, is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election.

Registered
candidate
entitled to
copies

3. Subsection 46 (1) of the said Act is amended by inserting after "electors" in the fourth line "allows easy access to persons who have a physical disability or a mobility impairment".

4. Section 52 of the said Act is amended by striking out "11" in the second line and inserting in lieu thereof "10".

5.—(1) Subsection 66 (1) of the said Act is amended by inserting after "day" in the third line "and on the Thursday immediately before polling day".

(2) Subsection 66 (3) of the said Act is amended by striking out "9" in the first line and inserting in lieu thereof "10".

(3) Subsection 66 (4) of the said Act is amended by inserting after "necessary" in the second line "shall select locations that allow easy access to persons who have a physical disability or a mobility impairment".

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted therefor:

Who may
vote by
proxy

(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 may vote by proxy in the polling subdivision.

7. Section 82 of the said Act is repealed.

8. Section 83 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 14, is repealed and the following substituted therefor:

RECOUNTS

Recount
officer

83.—(1) The clerk of every municipality, at the same time as the clerk appoints officials under section 4, may appoint a person as recount officer.

Disqualifi-
cation

(2) No person who is a candidate or who is less than eighteen years of age shall be appointed a recount officer.

Oath

(3) A recount officer shall, before performing any duties, take the oath in the prescribed form.

9. Sections 84, 85, 86, 87 and 88 of the said Act are repealed and the following substituted therefor:

Clerk as
recount
officer

84.—(1) If a recount officer is not appointed under subsection 83 (1), subject to subsections (2) to (5), the clerk of a municipality is the recount officer for elections within the municipality or any part of it.

Recount
officer,
regional
chairman

(2) The clerk of the area municipality with the greatest number of electors is the recount officer for the election of the chairman of a regional municipality.

Recount
officer, police
village

(3) The clerk of the municipality in which a police village is located is the recount officer for the election of the trustees of the police village.

Idem

(4) If the police village is located in two or more municipalities, the clerk of the municipality having the largest number of electors in the police village is the recount officer for the election of the trustees.

Recount
officer,
school
trustees

(5) The returning officers of municipalities that hold elections for school trustees under the *Education Act* are recount officers for the election of the school trustees.

(6) Where the recount officer of a municipality has participated in the actual counting of the ballots for a polling subdivision in an election or, for any reason, is unable to conduct a recount arising as a result of the election, the recount officer shall immediately appoint a person to act as the recount officer for that election who is not disqualified under subsection 83 (2). Recount officer replacement

(7) A person need not be appointed under subsection (6) if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the recount officer participated in the actual counting of the ballots. Exception

85.—(1) The recount officer is responsible for the proper preparation for and conduct of a recount in the election and, for this purpose, shall direct the training of persons appointed under this section and supervise their work. Duty of recount officer

(2) The recount officer may appoint assistant recount officers and may provide for such clerical and other assistance as is necessary to conduct a recount. Assistants

(3) No person shall be appointed under this section who, Disqualification

- (a) is a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

(4) Clause (3) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be appointed an assistant recount officer participated in the actual counting of the ballots. Exception

(5) The recount officer may in writing delegate to the assistant recount officers such rights and duties in relation to the preparation for and conduct of a recount as the recount officer considers necessary, but such delegation does not preclude the continued exercise of those rights and performance of those duties by the recount officer. Delegation by recount officer

(6) The recount officer may appoint persons to aid in maintaining peace and order at the recount. Other appointments

(7) Every recount officer, assistant recount officer, scrutineer and any other person authorized to attend and serve at a Oath

recount shall, before performing any duties, take the oath in the prescribed form.

Who may
administer
oaths

(8) The recount officer may administer any oath required in relation to a recount, and assistant recount officers may administer any such oath except an oath to be taken by the recount officer.

Remuner-
ation and
expenses

(9) The municipality shall pay to persons appointed under this section reasonable remuneration and the expenses incurred in attending the recount, but if the recount has been held at the request of a school board or a local board or at the request of a candidate for election to a school board or local board, the school board or local board, as the case may be, shall pay the remuneration and expenses.

Certification
of expenses

(10) The expenses under subsection (9) shall be paid out only upon presentation of a certificate signed by the clerk of the municipality verifying the amount payable.

Tie votes,
recount

86.—(1) If,

- (a) two or more candidates nominated for the same office have an equal number of votes and both or all of the candidates cannot be declared elected to the office; or
- (b) the votes for the affirmative and negative on a by-law or question are equal,

the recount officer shall, after the tied vote has been publicly announced, immediately appoint a time and place to hold a recount of the votes cast for those candidates or on the by-law or question.

When
recount to
be held

(2) The time appointed by the recount officer for a recount under subsection (1) shall be no later than seven days after the declaration of the results of the election under subsection 79 (2) or 79 (3).

Where vote
is close

86a.—(1) If the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes, is less than one half of one vote for each polling subdivision in the election for that office, or less than ten votes, whichever is greater, the results shall be included in the statement required under subsection 79 (2) or 79 (3).

(2) If subsection (1) applies and if a candidate who was not declared elected so requests in writing, the recount officer shall hold a recount.

Recount on request

(3) A request for a recount under subsection (2) shall be made to the recount officer not later than seven days after the declaration of the results of the election under subsection 79 (2) or 79 (3).

When request for recount to be made

(4) Upon receiving a request for a recount under this section, the recount officer shall appoint a time and place for the recount.

Time and place for recount

(5) The time appointed by the recount officer for a recount under subsection (4) shall be no earlier than ten days and no later than twenty days after the request for the recount is received.

When recount to be held

86b.—(1) Following an election for the members of the council of a municipality, regional municipality or metropolitan municipality or of a school board or of a local board, where a recount of the votes for the office or for the affirmative or negative on any by-law or question is considered to be in the public interest, the council, school board or local board, as the case may be, may pass a resolution requiring the recount officer to hold a recount.

Recount resolution

(2) A resolution for a recount under subsection (1) shall be passed no later than thirty days after the declaration of the results of the election under subsection 79 (2) or 79 (3).

When resolution to be passed

(3) If a resolution for a recount is passed under subsection (1) within the time period set out in subsection (2), the recount officer shall appoint a time and place for the recount.

Time and place for recount

(4) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days after the passing of the resolution under subsection (1).

When recount to be held

87.—(1) If, in any election, an elector has reasonable grounds for believing that,

Application for recount by elector

- (a) the votes have been improperly counted or any ballot has been improperly rejected;
- (b) an incorrect statement of the number of votes for any candidate or for or against any by-law or question has been made; or
- (c) the votes have been improperly added up,

the elector may apply to a judge of the District Court of the county or district in which the municipality or part thereof or the administrative or head office of the school board or local board is situate for a determination whether a recount should be held.

Affidavit and
deposit to
accompany
application

(2) An application for a recount under subsection (1) shall be commenced no later than thirty days after the declaration of the results of the election under subsection 79 (2) or 79 (3) and shall be accompanied by,

- (a) an affidavit or affidavits setting out the grounds for the recount and the facts in support of those grounds; and
- (b) a deposit in the sum of \$100 as security for the costs in connection with the application.

Contents of
affidavit

(3) An affidavit under clause (2) (a) shall be confined to facts within the personal knowledge of the person making the affidavit or to other evidence that this person could give if testifying as a witness in court.

Form of
deposit

(4) A deposit under clause (2) (b) shall be in the form of cash or in the form of a money order or certified cheque made payable to the local registrar of the District Court, or in any combination thereof.

Parties to
be served

(5) Copies of the notice of application, the application for a recount and affidavits in support of the application shall be served by the applicant,

- (a) where the application concerns an election to office, upon each candidate for that office; and
- (b) upon the recount officer.

Disposition
of
application,
etc.

(6) The judge, if satisfied that there are sufficient grounds for a recount, shall order that a recount be held by the recount officer and may determine which ballot boxes, if any, shall be opened for the purpose of the recount.

Where
recount
ordered

(7) If the judge has ordered a recount, the judge shall immediately notify the recount officer in writing and the recount officer shall appoint a time and place to hold the recount.

When
recount to
be held

(8) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days

following the date the recount officer receives the notice from the judge.

(9) The costs with respect to a recount conducted under this section are in the discretion of the judge ordering the recount who may order by whom, to whom and in what manner the costs shall be paid. Costs

88.—(1) The recount officer shall give at least six days notice in writing of the time and place of the recount to, Notice of recount

- (a) the candidate who requested the recount, the council or school board or local board which passed the resolution for the recount, or the elector who applied to the judge for the recount, as the case may be;
- (b) the candidates for the office which is the subject of the recount;
- (c) if the recount officer is not the returning officer of the municipality, the returning officer of the municipality; and
- (d) if the recount concerns the election of chairman of a regional municipality, the trustees of a police village or the members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality.

(2) The recount officer shall attend the recount and bring the ballot boxes and all documents relating to the election. Attendance of recount officer

(3) If the recount officer is not the returning officer of the municipality, the returning officer of the municipality, or a person appointed by the returning officer, shall attend the recount and bring the ballot boxes and all documents relating to the election. Where recount officer not returning officer

(4) If the recount concerns the election of chairman of a regional municipality or of trustees of a police village or of members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality, or a person appointed by the clerk, shall attend the recount and bring the ballot boxes and all documents relating to the election. Regional chairman, police village and school board elections

(5) Each candidate for an office to which the recount relates and the elector, if any, who applied for the recount are entitled to be present and to be represented by counsel and to Who may be present

have present a scrutineer appointed for that purpose, and, where the recount relates to a by-law or question, such persons as the council may appoint as scrutineers are entitled to be present, but no other person, except with the permission of the recount officer, is entitled to be present at the recount.

Application
of certain
provisions

(6) Subsections 4 (8) and (10) and sections 6 and 7 apply with necessary modifications to scrutineers appointed under subsection (5).

What ballots
involved in
recounts

88a.—(1) If a recount relates to the election of a candidate, the recount shall be of the votes cast,

- (a) where subsection 86 (1) applies, for the two or more candidates who have an equal number of votes;
- (b) where subsection 86a (1) applies, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected and for the defeated candidate or candidates who received enough votes for the same office to fall within the margin of votes prescribed by that subsection; and
- (c) in all other cases, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected by the returning officer and for the defeated candidate who received the highest number of votes for the same office.

Recount of
votes cast
for other
candidates

(2) Notwithstanding subsection (1), the recount officer may conduct a recount of the votes cast for any other candidate whose election or right to any other office may be affected by the recount conducted under subsection (1).

Procedure at
recount

88b.—(1) At the time and place appointed for the recount, and in the presence of those persons who are entitled to be present and who have attended, the recount officer shall add the votes from the statements returned to the returning officer by the deputy returning officers, or shall count the ballots received by the returning officer from the deputy returning officers and the number of votes counted at the election, or both, as the recount officer considers appropriate, and for this purpose shall open the sealed envelopes containing,

- (a) the ballots that were not objected to and were counted;
- (b) the ballots that were objected to but were counted;
- (c) the rejected ballots;
- (d) the cancelled ballots;
- (e) the ballots that were used but were unmarked;
- (f) the declined ballots; and
- (g) the unused ballots.

(2) Subject to sections 88c and 88d, the recount officer, in conducting the recount, shall determine the validity of ballots, and shall verify or correct the statement of the vote for each polling subdivision.

Verification
of statement
of the vote

88c.—(1) A candidate, a representative of the candidate or a scrutineer who objects to the validity of a ballot or to the counting of votes in any ballot may request that the recount officer make an application to a judge of the District Court for an order determining the validity of the ballot.

Application
to judge

(2) If the recount officer fails to make an application within five days of a request being made under subsection (1), the party making the request may apply directly to a judge of the District Court.

Direct
application

(3) No hearing under subsection (1) shall be held until the recount officer has complied with subsection 88b (2).

When
hearing to
be held

(4) If an application is made under subsection (1), the recount officer shall,

Procedure
where
application
made

- (a) write the number of the polling subdivision on the back of and initial any disputed ballots that are the subject of the application and seal them in a separate envelope clearly marked so as to indicate its contents;
- (b) give at least six days notice in writing of the time and place of the hearing of the application to the parties to the recount; and
- (c) make suitable arrangements for the safekeeping of any ballots that are not the subject of the appli-

cation and any documents relating to the election that are not relevant to the application.

Attendance
of recount
officer at
hearing

(5) The recount officer shall attend the hearing of the application and bring the envelope containing the disputed ballots that are the subject of the application and any documents relating to the election that are relevant to the application.

Procedure
at hearing

(6) The judge, in the presence of the persons entitled to be present at the recount and who have attended the hearing, shall determine the validity of the ballot or to the counting of votes in any ballot and for this purpose shall open the sealed envelope containing the disputed ballots.

Distin-
guishing
disputed
ballots

(7) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, notwithstanding any order to the contrary made by the judge under this section, is disputed by the party and seal the disputed ballots in a separate envelope clearly marked so as to indicate its contents.

Procedure on
completion
of hearing

(8) Upon completion of the hearing, the judge shall make an order determining the validity of the ballot and shall,

- (a) advise the persons present of the order;
- (b) except as provided by subsection (7), seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b), along with any documents relating to the election that were examined during the course of the hearing, to the custody of the recount officer.

Judge to
give order
to recount
officer

(9) The judge shall give a certified copy of the order to the recount officer unless, within five days following the hearing, the judge receives a notice of appeal under section 88j.

Recount
officer to
complete
recount

(10) Upon receipt of the judge's order, the recount officer shall complete the recount.

Costs of
application

(11) Subject to subsection (12), the costs of the application shall be borne by the municipality, school board or local board to which the recount relates.

Idem

(12) If the judge finds that any objection is frivolous or vexatious, the judge may order that the costs of the application be paid by the person who made the objection.

(13) Upon the expiry of the time for appeal from a decision of the judge, if no appeal has been taken, the judge shall return the envelope described in subsection (7) to the custody of the recount officer.

Where
no appeal,
envelope to
be returned

88d. Notwithstanding section 88c, if a party to the recount requests the recount officer to do so, the recount officer shall write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

Distin-
guishing
disputed
ballots

88e.—(1) Upon completion of the recount, the recount officer shall,

Procedure on
completion
of recount

- (a) announce the result to the persons present at the recount; and
- (b) except as provided in section 88d, seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents.

(2) The recount officer shall certify in writing the result of the recount, unless, within five days following the completion of the recount, the recount officer receives a notice of appeal under section 88j.

Certification
by recount
officer

(3) Following certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

Declaration
of result by
returning
officer after
recount, etc.

88f.—(1) In the case of a tied vote for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount, the successful candidate shall be determined by lot conducted by the recount officer.

Tied votes

(2) The lot shall be conducted by placing the names of the candidates on equal size pieces of paper in a box, and the name drawn by the recount officer shall be the successful candidate.

Method of
conducting
lot

88g. The costs of the recount, unless otherwise ordered by a judge, shall be borne by the municipality, school board or local board to which the recount relates.

Costs of
recount

88h.—(1) Upon the expiry of the time for appeal from a decision of the recount officer, if no appeal has been taken,

If no appeal,
envelopes to
be returned

the recount officer shall return the envelopes described in section 88d and clause 88e (1) (b) to the custody of the appropriate clerk or returning officer.

Documents
not required
on appeal

(2) If an appeal is taken from the decision of the recount officer on the recount, the recount officer shall return the envelopes of ballots and the original statements of the vote described in clause 88e (1) (b) that are not required for the appeal to the custody of the appropriate clerk or returning officer.

Right to sit
pending
recount

88i.—(1) A candidate declared elected is entitled to sit on the council, school board or local board notwithstanding that a request or application for a recount has been filed or a resolution for a recount has been passed, but where the recount determines that some other person was elected, that other person is, notwithstanding that an appeal is pending, entitled to sit and vote until the appeal is disposed of.

Decisions
not affected

(2) A decision of a council, school board or local board reached with the participation of a member who is subsequently declared not to be entitled to sit on the council, school board or local board is not affected by that participation.

APPEAL FROM DECISION OF JUDGE OR RECOUNT OFFICER

Appeal from
decision of
judge or
recount
officer

88j.—(1) Any party may appeal to the Divisional Court from the decision of the judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service
of notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that the judge of the Divisional Court may direct.

Documents
to be
forwarded

(3) The judge or recount officer shall forward to the Registrar of the Supreme Court by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the

subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and

- (d) if the appeal is not limited, all of the ballots, in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

(4) The judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (9) or 88e (2). Certificate to be issued after appeal

(5) The judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the Registrar. Copy of certificate

(6) On receipt of the ballots, notice and statement, the Registrar shall immediately obtain an appointment from the Divisional Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(7) One judge of the Divisional Court shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the judge of the District Court or to the recount officer. Determination by Divisional Court

(8) The judge or recount officer, in compliance with the decision of the Divisional Court, shall certify the result without delay. Certificate to reflect decision

10. Subsection 103 (2) of the said Act is repealed.

11. Section 121 of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 25 and amended by 1985, chapter 4, section 10, is repealed.

12. The said Act is further amended by adding thereto the following Parts:

PART II

121.—(1) In this Part,

Definitions

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and con-

tributions of goods and services to the registered candidate, but does not include,

- (a) audit and accounting fees,
- (b) interest on loans under section 127,
- (c) an expense incurred in holding a fund-raising function referred to in section 126,
- (d) an expense incurred for victory parties held and appreciation notices published after polling day,
- (e) an expense relating to a recount in respect of the election, and
- (f) an expense relating to an action commenced under section 106;

“campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
 - (i) an order to hold a new election is given in any judicial proceedings,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required, or
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,
c. 302

and ending,

- (c) in the case of a regular election, on the 31st day of March in the year following the election year, or
- (d) in the case of a new election, 135 days after polling day;

“contribution” means a contribution made to a registered candidate or representative of a registered candidate for pur-

poses of the election of the registered candidate at the next election, but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour, and
- (b) any service voluntarily performed for a registered candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township, regional municipality or metropolitan municipality;

"registered candidate" means a candidate registered under section 122;

"trade union" means a trade union as defined in the *Labour Relations Act* or the *Canada Labour Code* that holds bargaining rights for employees in Ontario to whom those Acts apply and includes any central, regional or district labour council in Ontario.

R.S.O. 1980,
c. 227
R.S.C. 1970,
c. L-1

(2) Where a corporation is associated with another corporation under section 256 of the *Income Tax Act* (Canada) and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125 (6) (d) of the *Income Tax Act* (Canada), the two associated corporations shall be considered as a single corporation for the purposes of this Part.

Associated
corporations
R.S.C. 1952,
c. 148

REGISTRATION

122.—(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form.

Registration
of candidate

(2) In the case of a new election, the notice of registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

Registration
in new
elections

- (a) an order to hold a new election is given in any judicial proceedings;

- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of the school board notice that a new election is required; or
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,
c. 302

and no later than nomination day.

When
candidate
registered

(3) A person who files a notice of registration under subsection (1) becomes a registered candidate on the day of filing.

No contri-
butions to
unregistered
candidate

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

Register

(5) The clerk shall keep a register of every person who has filed a notice of registration under subsection (1) setting out,

- (a) the date that the registered candidate is duly nominated under section 36;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every chartered bank, trust company or other financial institution in Ontario

that is used by or on behalf of the registered candidate for the deposit of any contributions;

- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g); and
- (i) the date of registration.

(6) A notice of registration under subsection (1) may be filed with the clerk by registered mail in which case it shall be deemed to be filed on the day it is mailed.

Effective date of registration

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

Where registered candidate withdraws, etc.

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;
- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of death,

and the registered candidate or the chief financial officer shall file with the clerk the statement referred to in section 132.

(8) If the information referred to in subsection (5) is altered, the registered candidate shall immediately notify the clerk in writing of the alteration and, upon receipt of the notice, the clerk shall vary the register accordingly.

Variation of register

CHIEF FINANCIAL OFFICERS

123.—(1) Every person who proposes to be a candidate may appoint a chief financial officer before or after filing the notice of registration with the clerk.

Chief financial officer

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the clerk of the full name and address of the new chief financial officer.

Replacement

(3) The chief financial officer shall be responsible for ensuring that,

Duties of chief financial officer

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in the appropriate accounts;
- (c) proper receipts are completed;
- (d) the financial statements required under section 132 and the auditor's report on the statements are filed with the clerk;
- (e) contributions consisting of goods or services are valued and recorded; and
- (f) proper direction is given to persons authorized to incur expenses.

Where
no chief
financial
officer

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is responsible for the duties set out in subsection (3).

CONTRIBUTIONS

Contributions

124.—(1) Contributions to registered candidates may be made only by individuals, corporations and trade unions and may be made only during the campaign period.

Contributions
to be made
in campaign
period

(2) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept contributions at any time other than during the campaign period.

How contri-
butions of
money to be
made

(3) Money contributions to registered candidates in amounts in excess of \$25 shall only be made by,

- (a) a cheque having the name of the contributor legibly printed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

Deposit of
funds

(4) All moneys accepted by or on behalf of a registered candidate shall be paid into an account registered with the clerk under subsection 122 (5).

(5) If the registered candidate or the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the registered candidate or the chief financial officer shall, within thirty days after so learning and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of that contribution, return the contribution or an amount equal to the sum contributed.

Refund of
contributions

(6) Any contributions not returned to the contributor under subsection (5) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the clerk and become part of the general funds of the municipality.

Anonymous
contributions
payable to
municipality

(7) No individual, corporation or trade union shall make a contribution in money, goods and services to any registered candidate which in total exceeds \$750 in value during any campaign period.

Limitation on
contributions

(8) Any moneys used for an election campaign by a registered candidate out of the registered candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this section, but the limit on the total amount of contributions established under subsection (7) does not apply in respect of those funds.

Registered
candidate's
funds,
spouses's
funds

(9) Every registered candidate shall submit to the clerk at the same time as the financial statement is filed under section 132, a statement in writing setting out campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the registered candidate, together with all receipts and claims for those expenses.

Statement to
be submitted
to clerk

125.—(1) No individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to that individual, corporation or trade union.

Contributor
to contribute
only funds
belonging to
contributor

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Exception

(3) No registered candidate and no individual, corporation or trade union on behalf of the registered candidate shall solicit or accept any contribution contrary to subsection (1).

Prohibition

(4) No registered candidate shall accept funds from,

No funds
from political
parties, etc.

1973-74,
c. 14 (Can.)

(a) a federal political party registered under the *Canada Elections Act* or any federal constituency association or registered candidate at a federal election endorsed by such federal political party; or

1986, c. 33

(b) a provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act, 1986*.

Receipts

(5) A registered candidate shall issue receipts for every contribution accepted.

Group contri-
butions

(6) A contribution to a registered candidate made through an unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution.

Application
to amounts
making up
contribution

(7) The amounts making up a contribution under subsection (6) that are attributable to an individual, corporation or trade union are contributions of that individual, corporation or trade union for the purposes of subsection 124 (7).

Receipt of
excess contri-
butions
prohibited

(8) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept any contributions in excess of the limits imposed under subsection 124 (7).

Restriction
on contri-
butions

(9) No registered candidate shall directly or indirectly solicit or accept contributions from,

- (a) an individual normally resident outside Ontario;
- (b) a corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

Trade
unions,
contributions

(10) Contributions of not more than 15 cents per month by a member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of section 124 and this section, but any amount contributed to a registered candidate shall be deemed to be a contribution from the trade union.

Record of
contributions
to be kept

(11) Every registered candidate shall keep a record of all contributions in excess of \$25 or having a value in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contribu-

tions from a single source that in the aggregate exceed \$100, the name and address of the contributor.

126.—(1) In this section, “fund-raising function” means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held. Definition

(2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period. When fund-raising functions to be held

(3) The gross income from a fund-raising function shall be recorded and reported to the clerk by the registered candidate or the chief financial officer. Income to be reported

(4) If a charge is made for a fund-raising function by the sale of tickets or otherwise, any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate, be considered not to be a contribution. Where charge may be considered not a contribution

(5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of current market value shall be considered a contribution. Where amounts to be considered contributions

(6) If a meeting is held on behalf of or in relation to the affairs of a registered candidate and money is given in response to a general collection of money solicited from the persons in attendance at the meeting, no amount shall be given anonymously by any person in excess of \$10 and the amounts so given shall be considered not to be contributions, but the gross amount collected shall be recorded and reported to the clerk by the registered candidate or the chief financial officer. Collection of money at meetings

BORROWING

127.—(1) A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the registered candidate and reported to the clerk in the financial statement filed under subsection 132 (1). Borrowing

(2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1). Limitation

LOAN GUARANTEE

Guarantee
of loan to
registered
candidates
prohibited

128.—(1) Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate.

Exception

(2) An individual, corporation or trade union that is eligible to make a contribution may guarantee any loan referred to in subsection 127 (1).

Guarantee as
contribution

(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 127 (1) is considered to be a contribution under section 124.

CAMPAIGN EXPENSES

Authority
to incur
campaign
expenses

129.—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the registered candidate by persons authorized by the registered candidate.

Certificate
of authority

(2) Every person authorized to incur a campaign expense shall, upon request, show a certificate, in the prescribed form, signed by the registered candidate as proof of the authority.

Record of
campaign
expenses

(3) Every registered candidate shall keep a record of all campaign expenses.

Limitation
on campaign
expenses

(4) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation, trade union or unincorporated association acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed the aggregate amount of \$5,500 plus \$0.50 per elector.

Idem

(5) Subject to subsection (6), the total campaign expenses incurred by a registered candidate in an election for the office of,

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality if this office is required to be filled by the vote of the electors of an area municipality; or

- (c) member of a school board or of a local board whose members are to be elected at elections required to be conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation, trade union or unincorporated association acting on behalf of the registered candidate during the period commencing with the date of registration and ending on polling day in the election shall not exceed the amount of \$3,500 plus \$0.50 per elector.

(6) If the municipality or the school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of the wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be.

Limitation
on campaign
expenses,
ward
elections

(7) For the purpose of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

Determi-
nation of
number of
electors by
returning
officer

(8) After determining the number of electors under subsection (7), the clerk shall calculate, for each office, the maximum amount of campaign expenses that may be incurred by a registered candidate under subsection (4), (5) or (6), as applicable, certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or send by registered mail a copy of the certificate to each registered candidate for the office.

Calculation
and certifi-
cation
of maximum
campaign
expenses by
returning
officer, etc.

(9) Certification of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office by the clerk under subsection (8) shall be conclusive evidence of that fact and shall not be open to challenge.

Certificate
conclusive

130.—(1) Every individual, corporation or trade union that has any claim for payment in relation to a campaign expense shall submit the claim after polling day to the registered candidate who incurred the expense,

Time for
submission of
claims for
payment

- (a) in the case of a regular election, no later than the 31st day of March in the year following the election year; or

- (b) in the case of a new election, no later than 135 days after polling day.

Payment of expenses by registered candidate

(2) Every payment of a campaign expense shall be made by the registered candidate or the chief financial officer who incurred or on whose behalf the campaign expense was incurred and, except where the campaign expense is less than \$25, a receipt shall be obtained setting out the particulars and proof of payment.

Method of payment

(3) Payment of any campaign expense shall be made by cheque drawn on an account registered with the clerk under subsection 122 (5).

Disputed claims

(4) If the registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

AUDITORS

Appointment of auditor

131.—(1) If contributions received by a registered candidate exceed \$10,000 or expenses incurred by the registered candidate exceed \$10,000 during the campaign period, the registered candidate shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately inform the clerk of the full name and address of the auditor.

R.S.O. 1980, c. 405

Report of auditor

(2) The auditor shall make a report to the registered candidate or the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 132, and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards.

Change of auditors

(3) If an auditor appointed under subsection (1) ceases to hold office, ceases to be qualified under subsection (1) or becomes ineligible under subsection (4), the candidate shall immediately appoint another auditor licensed under the *Public Accountancy Act* and shall immediately notify the clerk of the full name and address of the auditor.

R.S.O. 1980, c. 405

Persons not eligible to be auditors

(4) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate.

Report of auditor

(5) If,

- (a) the auditor has not received from the registered candidate or the chief financial officer all the information and explanation that is required to make the report; or
- (b) proper accounting records have not been kept by the registered candidate or the chief financial officer,

the auditor shall make a statement to that effect in the report made under subsection (2).

(6) An auditor appointed under subsection (1) shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate. Right of access

(7) The registered candidate or the chief financial officer shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (2). Co-operation required

STATEMENTS, REPORTS AND STATUTORY DECLARATIONS

132.—(1) Subject to subsections (3) and (4), every registered candidate shall file with the clerk who was the returning officer in the election a financial statement and auditor's report in the prescribed form which shall contain, Filing of financial statement

- (a) all income received and expenses incurred in the campaign period;
- (b) a list of contributions in the form of goods or services and the value of them received by or on behalf of the registered candidate during the campaign period;
- (c) the name, address and contribution of each individual, corporation or trade union that made a contribution, whether in the form of money, goods or services, if the contribution was more than \$100; and
- (d) a list of campaign expenses, paid and outstanding, incurred in a campaign period and a statement of disputed claims.

(2) The financial statement and auditor's report under subsection (1) shall be filed, Idem

(a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or

(b) in the case of a new election, no later than 225 days after polling day.

Where report
sufficient

(3) If the contributions received by or on behalf of a registered candidate do not exceed \$10,000 or expenses incurred by or on behalf of the registered candidate do not exceed \$10,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a report in the prescribed form containing the information required in subsection (1).

Where
statutory
declaration
sufficient

(4) If the contributions received by or on behalf of a registered candidate do not exceed \$1,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$1,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration in the prescribed form to that effect.

Clerk
to prepare
statement

(5) After the time for the filing of a statement, report or declaration under subsection (1), (3) or (4) has expired, the clerk shall immediately prepare a statement in the prescribed form disclosing,

(a) the information received under this section; and

(b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Demand
to candidate
to file

(6) After the time prescribed for making full disclosure under subsection (1) has expired, the clerk shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement, report or declaration, a notice in the prescribed form demanding that the registered candidate file a statement, report or declaration within thirty days from the date of the notice.

Contents
of demand
notice

(7) The notice under subsection (6) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not elected, shall be ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the

statement, report or declaration within thirty days of the date of the notice.

(8) The clerk shall post a notice of non-compliance in the prescribed form in two conspicuous places in the municipality and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

Publishing
notice of
non-com-
pliance

(9) After the thirty day period for the filing of a statement, report or declaration has expired, the clerk shall immediately prepare a supplementary statement in the prescribed form disclosing,

Clerk
to prepare
supple-
mentary
statement

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section, within the thirty day period allowed by subsection (6),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

133.—(1) If a registered candidate,

Ineligibility
respecting
future
elections

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6);
- (b) files a financial statement, a report or statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date that the clerk files the statement under subsection 132 (5); or
- (c) incurs campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has

Forfeiture
of office

exceeded the amount referred to in clause (1) (c), the clerk shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Ineligibility
respecting
future
elections

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

ACCESS TO DOCUMENTS

Inspection of
documents

134.—(1) Documents, financial statements, reports and declarations filed with the clerk under this Part are public records and may be inspected by any person upon request at the office of the clerk during normal office hours.

Extracts and
copies

(2) Any person may make extracts from the statements, reports or declarations referred to in subsection (1) and is entitled to copies thereof upon payment for the preparation of the copies at such rate as the clerk charges for the preparation of copies of other documents.

Not to be
used for
commercial
solicitation

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the clerk under this Part for the purposes of commercial solicitation.

Section
applicable to
certain
statements

(4) This section applies to a statement prepared by the clerk that is required to be submitted to the council of the municipality, the school board or local board under subsection 132 (5) or (9).

OFFENCES

Offence by
corporation
or trade
union

135.—(1) A corporation or trade union that contravenes any of sections 122 to 134 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offence

(2) An individual who contravenes any of sections 122 to 134, except subsection 124 (7), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

(3) If the total campaign expenses incurred by a registered candidate or any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 129 for the office subject to election, the candidate, in addition to the fine set out in subsection (2), is liable to a fine equal to the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 129.

Additional
penalty

136. No prosecution shall be instituted for a contravention of any of sections 122 to 134 more than one year after the facts upon which the prosecution is based first came to the knowledge of the informant.

One year
limitation

137.—(1) No person shall obstruct a person making an investigation or examination under this Act or withhold or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

Obstructing
investigation,
etc.

(2) No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the clerk under section 132 or 133.

False
statements

PART III

138.—(1) In this Part,

Definitions

“broadcasting undertaking” means a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada);

R.S.C. 1970,
c. B-11

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and contributions of goods and services to the registered candidate but not including,

- (a) auditor’s and accounting fees,
- (b) interest on loans authorized under section 162,
- (c) an expense incurred in holding a fund-raising function referred to in section 153,
- (d) an expense incurred for victory parties and appreciation notices published after polling day,

- (e) an expense relating to a recount in respect of the election,
- (f) an expense relating to an action commenced under section 106, and
- (g) other expenses not of partisan value that are set out in guidelines provided by the Commission;

“campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
 - (i) an order to hold a new election is given in any judicial proceedings,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required, or
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,
c. 302

and ending,

- (c) in the case of a regular election, on the 31st day of March in the year following the election year, or
- (d) in the case of a new election, 135 days after polling day;

1986, c. 33

“Commission” means the Commission on Election Finances established by the *Election Finances Act, 1986*;

“contribution” means a contribution made to a representative of a registered candidate but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour,
- (b) any service voluntarily performed for a candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual’s employer, compensation in

excess of what the individual would receive during the period the service was performed, and

- (c) any moneys, goods or services solicited by or donated to a registered candidate for purposes other than those set out in subsection 143 (3);

“municipality” means a city, town, village, police village, township, regional municipality or metropolitan municipality;

“news reporting done in good faith” means interviews, commentaries or other works prepared for and published by any newspaper, magazine or other periodical publication or broadcast on the facilities of any broadcasting undertaking without charge to any candidate registered under this Part;

“outdoor advertising facilities” means outdoor facilities provided by any person that is in the business of providing these facilities on a commercial basis for advertising purposes but does not include radio, television, newspaper, magazine or other periodical publications;

“registered candidate” means a candidate registered under section 143;

“trade union” has the same meaning as in Part II.

(2) Where a corporation is associated with another corporation under section 256 of the *Income Tax Act* (Canada) and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125 (6) (d) of the *Income Tax Act* (Canada), the two associated corporations shall be considered as a single corporation for the purposes of this Part.

Associated corporations
R.S.C. 1952,
c. 148

APPLICATION

139.—(1) Notwithstanding Part II, the council of a municipality may pass a by-law to have this Part apply to elections for the office of member of council including the head of the council of the municipality.

Council may
by by-law
adopt this
Part

(2) If a by-law is passed under subsection (1), this Part applies to the election of members of council.

Application
of Part

(3) Where the council of a regional municipality or metropolitan municipality passes a by-law under subsection (1), the clerk of the regional or metropolitan municipality shall send a copy of the by-law to the Commission and to the clerk of any

By-laws to
be sent to
Commission
and clerk

area municipality who is responsible for the conduct of any election to the council of the regional or metropolitan municipality.

By-laws to
be sent to
Commission

(4) Where the council of a municipality, other than a regional or metropolitan municipality, passes a by-law under subsection (1), the clerk of the municipality shall send a copy of the by-law to the Commission.

School board
may adopt
this Part

140.—(1) Notwithstanding Part II, where members of a school board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the school board may pass a resolution to have this Part apply to elections of members of the board.

Application
of Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of members of the board.

Resolution of
school board
to be sent to
Commission
and clerk

(3) Where a school board passes a resolution under subsection (1), the secretary of the board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

Local board
may adopt
this Part

141.—(1) Notwithstanding Part II, where members of a local board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the local board may pass a resolution to have this Part apply to elections of members of the board.

Application
of Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of the board.

Resolution of
local board
to be sent to
Commission
and clerk

(3) Where a local board passes a resolution under subsection (1), the secretary of the local board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

When by-
laws or
resolution to
be passed or
repealed

142. A by-law under section 139 or a resolution under section 140 or 141 shall be passed prior to the 1st day of January of an election year and, once passed, shall remain in force until repealed by a by-law of the council of the municipality or by a resolution of the school board or the local board, as the case may be, but no such repealing by-law or resolution shall be passed or take effect in an election year.

REGISTRATION

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the Commission an application for registration under this Part.

Application
for
registration
as candidate

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the Commission no earlier than the day on which,

Application,
new elections

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board notice that a new election is required; or
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,
c. 302

and not later than nomination day.

(3) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contri-
butions to
unregistered
candidate

(4) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate who files an application for registration with the Commission setting out,

Register

- (a) that the person,
 - (i) has been duly nominated for election to office in accordance with this Act and whose nomination is certified by the clerk, or
 - (ii) has not been so nominated but proposes to become so;

- (b) the name of the office for which the candidate has been or proposes to be nominated;
- (c) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (d) the full name and address of the registered candidate;
- (e) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (f) the full names and addresses of the auditor and the chief financial officer of the registered candidate;
- (g) the full name and addresses of all persons authorized by the registered candidate to accept contributions;
- (h) the name and address of every chartered bank, trust company or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions;
- (i) the full names and addresses of the persons responsible for making the deposits referred to in clause (h).

Effective
date of
registration

(5) A registered candidate who files an application under subsection (4) shall be deemed to be registered on the day of filing.

Idem

(6) An application under subsection (4) may be filed with the Commission by registered mail in which case it shall be deemed to be filed on the day it is mailed.

Where
registered
candidate
withdraws,
etc.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;

- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of death,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

(8) If the information referred to in clauses (4) (d) to (i) is altered, the candidate shall immediately notify the Commission in writing of the alteration, and, upon receipt of the notice, the Commission shall vary the register accordingly. Variation of register

144.—(1) After registering a candidate under subsection 143 (4), the Commission shall notify in writing the clerk of the municipality who is responsible for the conduct of the election and indicate to the clerk, Notification by Commission to clerk

- (a) the full name and address of the registered candidate; and
- (b) the name of the office for which the registered candidate has been, or will be nominated.

(2) The clerk shall maintain a list of all registered candidates and the office for which the registered candidate has been, or will be, nominated. Clerk to maintain list of candidates

(3) Where the full name and address of a registered candidate is varied by the Commission under subsection 143 (8), the Commission shall immediately notify the clerk in writing of the variation, and, upon receipt of the notice, the clerk shall vary the list of registered candidates accordingly. Notification of changes

CHIEF FINANCIAL OFFICERS

145.—(1) Every person who is applying for registration under this Part, before filing an application with the Commission, shall appoint a chief financial officer. Chief financial officer

(2) Where the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the Commission of the full name and address of the new chief financial officer. Replacement

Duties
of chief
financial
officer

(3) The chief financial officer shall be responsible for ensuring that,

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in a depository on record with the Commission;
- (c) proper receipts are completed and dealt with in accordance with this Part;
- (d) the financial statements as required by section 169 together with the auditor's report on those statements, are filed with the Commission in accordance with this Part;
- (e) contributions consisting of goods or services are valued and recorded in accordance with this Part; and
- (f) proper direction is given to persons authorized to incur expenses.

CONTRIBUTIONS

Contributions

146.—(1) Contributions to registered candidates may be made by individuals, corporations and trade unions only during the campaign period.

How contri-
butions of
money to
be made

(2) Money contributions to registered candidates in amounts in excess of \$25 shall be made only by,

- (a) a cheque having the name of the contributor legibly printed or typed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

Deposit
of funds

(3) All moneys accepted by or on behalf of a registered candidate shall be paid into an account on record with the Commission.

Refund of
contributions

147.—(1) If the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the chief financial officer shall, within thirty days after so learning and

upon obtaining the contributor's copy of the receipt issued under section 155 in respect of that contribution, return the contribution or an amount equal to the sum contributed.

(2) Any contributions not returned to the contributor in accordance with subsection (1) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the Commission and become part of the general funds of the Commission to be used by the Commission in carrying out its responsibilities under this or any other Act.

Anonymous contributions

148.—(1) No individual, corporation or trade union shall make a contribution in money, goods and services to a registered candidate which in total exceeds \$750 in value during any campaign period.

Limitation on contributions

(2) Any moneys used for an election campaign by a registered candidate out of the candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this Part, but the limit on the total amount or value of contributions established under subsection (1) does not apply in respect of those funds.

Registered candidate's funds, spouse's funds

(3) Every registered candidate shall submit to the chief financial officer a statement in writing setting out all campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the candidate, together with all receipts and claims for those expenses, within six months after polling day.

Statement to be submitted

149.—(1) Subject to section 159, no individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to the individual, corporation or trade union.

Contributor to contribute only funds belonging to contributors

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Exception

(3) No registered candidate and no individual, corporation or trade union on behalf of the candidate, shall solicit or accept any contribution contrary to subsection (1).

Prohibition

150. No registered candidate shall accept funds from,

No funds from political parties, etc.

- (a) a federal political party registered under the *Canada Elections Act* or any federal constituency association

1973-74, c. 14 (Can.)

or candidate at a federal election endorsed by such federal political party;

- (b) a provincial political party, constituency association, candidate or leadership contestant registered under the *Election Finances Act, 1986*.

1986, c. 33

Determi-
nation of
value of
goods and
services

151.—(1) The value of goods and services provided as a contribution to a registered candidate is,

- (a) where the contributor is in the business of supplying these goods and services, the lowest amount charged by the contributor for an equivalent amount of similar goods and services at or about the time and in the same market area;
- (b) where the contributor is not in the business of supplying these goods or services, the lowest amount charged, at or about the time the goods or services are provided, by any other individual, corporation or trade union providing similar goods or services on a commercial retail basis in the same market area.

Where goods
or services
less than
\$100

(2) Goods or services having a total value of \$100 or less may, at the option of the individual, corporation or trade union providing these goods or services, be considered not to be a contribution for the purposes of this Part.

Where goods
or services
provided at
less than
value

(3) Where goods or services are provided to a registered candidate for a price that is less than the value of the goods or services as determined under subsection (1), the amount that the price is less than that value shall, subject to subsection (2), be a contribution for the purpose of this Part.

Political
advertisements

152.—(1) Where any individual, corporation or trade union with the knowledge and consent of a registered candidate promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcasting undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or through the use of any outdoor advertising facility and the amount of the cost of the advertisement,

- (a) in the case of any single advertisement, is more than \$100; and

- (b) in the case of any advertisements from a single service broadcast or published in any campaign period, in total exceeds \$100,

this amount shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

(2) Notwithstanding subsection (1), where political advertising is provided on the facilities of any broadcasting undertaking without charge to registered candidates in a particular municipality or school board or local board jurisdiction in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines issued thereunder, such political broadcasts shall not be considered a contribution or a campaign expense.

Idem

R.S.C. 1970,
c. B-11

(3) No individual, corporation or trade union shall cause any political advertisement to be broadcast on the facilities of any broadcasting undertaking or published in any newspaper, magazine or other periodical publication or through the use of any outdoor advertising facility unless the broadcaster or publisher of the political advertisement is furnished with the identification, in writing, of the individual, corporation or trade union sponsoring the political advertisement.

Identity of
sponsor of
advertisement
to be known

(4) A broadcaster who broadcasts or a publisher who publishes a political advertisement shall maintain records for a period of two years after the date of the broadcast or publication setting out the advertisement, the charge for it and any material relating to identification furnished to the broadcaster or publisher in connection with the advertisement and shall permit the public to inspect these records during normal office hours.

Records to
be
maintained of
political
advertisement

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the individual, corporation or trade union sponsoring the political advertising.

Name of
sponsor to be
included in
political
advertising

(6) In this section, "political advertisement" and "political advertising" mean any matter promoting or opposing the election of any registered candidate for which a fee is paid, but does not include any news reporting done in good faith.

Definition

153.—(1) In this section, "fund-raising function" means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held.

Definition

Restriction
on fund
raising

(2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period.

Income to be
reported to
Commission

(3) The gross income from any fund-raising function shall be recorded and reported to the Commission by the chief financial officer of the registered candidate who held the function or on whose behalf the function was held.

Sale of
tickets, etc.

(4) Where a charge by the sale of tickets or otherwise is made for a fund-raising function, all or any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate by whom or on whose behalf the function was held, be considered not to be a contribution for the purposes of this Part.

Excess
payments
considered
contributions

(5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of the highest amount charged, at or about the time the goods or services are provided, by any other person providing similar goods on a commercial basis in the same market area shall be considered a contribution.

Collections at
meeting

154.—(1) Where, at a meeting held on behalf of a registered candidate, money is given in response to a general collection of money solicited, no amount shall be given anonymously by any person in excess of \$10.

Idem,
reporting
of amount

(2) The amounts given under subsection (1) shall be considered not to be contributions but the gross amount collected shall be recorded and reported to the Commission by the chief financial officer.

Receipts to
be issued for
contributions

155.—(1) Every registered candidate shall issue or cause to be issued receipts in the form prescribed by the Commission for every contribution accepted.

Form of
receipt

(2) A receipt prescribed by the Commission under subsection (1) shall provide, on its face, for the acknowledgment of the contribution accepted by or on behalf of the registered candidate and, on its back, for an application to the clerk of the municipality who was responsible for conducting the election for a tax credit that the contributor is eligible to receive under this Part on account of the contribution.

Group contri-
butions to be
recorded as
to source

156.—(1) Any contribution to a registered candidate made through any unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution.

(2) The amounts making up a contribution under subsection (1) that are attributable to any individual, corporation or trade union are contributions of that individual, corporation or trade union. Idem

157. No registered candidate and no individual, corporation or trade union on behalf of the candidate shall solicit or accept any contributions in excess of the limits imposed by this Part. Prohibition

158. No registered candidate shall directly or indirectly solicit or accept contributions from, Restriction on contributions

- (a) any individual normally resident outside Ontario;
- (b) any corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

159. Contributions of not more than 15 cents per month by any member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of this Part, but any amounts contributed to a registered candidate from these funds shall be considered to be a contribution from the trade union. Contributions by payroll deduction

160. No contribution shall be accepted by a registered candidate except through the chief financial officer or other person on record with the Commission as authorized to accept contributions. Contributions not to be accepted by candidate directly

161. Every registered candidate shall keep a record of all contributions in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contributions from a single source that in the aggregate exceed \$100, the name and address of the contributor. Record of contributions to be kept

BORROWING

162.—(1) A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the candidate and reported to the Commission. Borrowing

Limitation

(2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1).

LOAN GUARANTEE

Guarantee of loans to registered candidates prohibited

163.—(1) Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate.

Exception

(2) An individual, corporation or trade union that is eligible to make a contribution under this Part may guarantee any loan referred to in subsection 162 (1).

Guarantee as contribution

(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 162 (1) is considered to be a contribution under section 148.

CAMPAIGN ADVERTISING

Restriction on advertising

164.—(1) No registered candidate and no individual, corporation or trade union acting with the candidate's knowledge and consent shall, except during the period of twenty-eight days immediately preceding the day before polling day,

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for the purposes of promoting or opposing the election of a registered candidate.

Idem

(2) No individual or corporation shall, during the period prescribed in subsection (1), broadcast on the facilities of any broadcasting undertaking or publish in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities an advertisement promoting or opposing the election of a registered candidate on behalf of any registered candidate or any individual, corporation or trade union acting with the candidate's knowledge or consent.

Exemptions

(3) Subsections (1) and (2) do not apply to,

- (a) advertising public meetings in the municipality or the jurisdiction of the school board or local board, as the case may be;
- (b) announcing the location of the campaign headquarters of a candidate;
- (c) advertising for volunteer campaign workers;
- (d) announcing services for electors by candidates respecting the revision of the preliminary list and additions to the polling list;
- (e) announcing services for electors on polling day; or
- (f) any other matter respecting administrative functions of a candidate's campaign headquarters,

if the advertisements, announcements and other matters are done in accordance with the guidelines of the Commission.

(4) Nothing contained in subsection (1) prohibits news reporting done in good faith during the period referred to in subsection (1) or the procuring for publication or the publishing of, Idem

- (a) an advertisement referred to in subsection (1) on the day immediately preceding polling day in a newspaper which is published in the municipality or in the jurisdiction of the school board or local board, as the case may be, not more frequently than once a week if the day of regular publication falls on the day immediately preceding polling day; or
- (b) an advertisement referred to in subsection (1) on the day immediately preceding polling day and on polling day through the use of any outdoor advertising facility.

(5) Nothing in subsection (1) prohibits the broadcasting on the facilities of a broadcasting undertaking of news reporting done in good faith in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines published thereunder during the period referred to in subsection (1). Idem,
broadcasting
R.S.C. 1970,
c. B-11

(6) No individual or corporation shall,

- (a) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for broadcasting time on any broadcasting undertak-

Limitations
on charges
for
broadcasting,
publishing

ing in the period beginning on the twenty-eighth day before the day immediately before polling day at an election and ending on the second day before polling day, that exceeds the lowest rate charged by the individual or corporation for an equal amount of equivalent time on the same facilities made available to any other person in that period; or

- (b) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for an advertisement in a periodical publication published or distributed and made public in the period referred to in clause (a) that exceeds the lowest rate charged by the individual or corporation for an equivalent amount of advertising space in the same issue of the periodical or in any issue published or distributed and made public in that period.

CAMPAIGN EXPENSES

Authorized
expenses

165.—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the chief financial officer of the candidate by persons authorized by the chief financial officer.

Proof of
authority

(2) Every person authorized to incur a campaign expense by a chief financial officer under subsection (1) shall, upon request, show a certificate, in the form prescribed by the Commission, signed by the chief financial officer as proof of the authority.

Limitation on
campaign
expenses,
head of
council

166.—(1) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation or trade union acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$5,500, plus \$0.50 per elector.

Idem,
members of
council, etc.

(2) Subject to subsection (3), the total campaign expenses incurred by a registered candidate in an election for the office of,

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality where this office is required to be filled by the vote of the electors of an area municipality;

- (c) member of a school board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality; or
- (d) member of a local board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation or trade union acting on behalf of that candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$3,500, plus \$0.50 per elector.

(3) Where the municipality, school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of those wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be.

Campaign
expenses,
ward system

(4) For the purposes of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

Determi-
nation of
number
of electors

(5) After determining the number of electors under subsection (4), the clerk shall calculate, for each office, the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for an office under subsection (1) or (2), and certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or cause to be delivered personally or send or cause to be sent by registered mail a copy of the certificate to each registered candidate for the office and to the Commission.

Duties
of clerk

(6) Certification of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office by the clerk under subsection (5) is conclusive evidence of the fact.

Clerk's
certificate
conclusive

167.—(1) Every individual who or corporation or trade union which has any claim for payment in relation to a campaign expense shall submit the claim to the chief financial officer of the registered candidate who incurred the expense,

Submission
of payment
claims

- (a) in the case of a regular election, no later than the 31st day of March in the year following the election year; or
- (b) in the case of a new election, no later than 135 days after polling day.

Payment
of claims

(2) Every payment of a campaign expense shall be made by the chief financial officer of the registered candidate who incurred the campaign expense and, except where the campaign expense is less than \$25, the chief financial officer shall set out the particulars of payment.

Disputed
claims

(3) Where the chief financial officer of a registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

AUDITORS

Appointment
of auditor

R.S.O. 1980,
c. 405

168.—(1) Every candidate, at the time of appointing a chief financial officer, shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor.

Change of
auditors

R.S.O. 1980,
c. 405

(2) If an auditor appointed under subsection (1) ceases to hold office, ceases to be qualified under subsection (1) or becomes ineligible under subsection (3), the candidate shall immediately appoint another auditor licensed under the *Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor.

Persons not
eligible to be
auditors

(3) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate.

Report of
auditor

(4) The auditor shall make a report to the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 169, and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards.

Idem

(5) If,

- (a) the auditor has not received from the chief financial officer all the information and explanation that is required; or
- (b) proper accounting records have not been kept by the chief financial officer so far as appears from the auditor's examination,

the auditor shall make a statement to that effect in the report made under subsection (4).

(6) An auditor shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate.

Right of
access

(7) The chief financial officer of the candidate shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (4).

Co-operation
required

FINANCIAL STATEMENTS

169.—(1) The chief financial officer of every registered candidate shall file with the Commission,

Filing of
financial
statements
with
Commission

- (a) a financial statement setting out,
 - (i) all income received and expenses incurred in the campaign period,
 - (ii) all campaign expenses, paid and outstanding, incurred in a campaign period and a statement of all disputed claims, and
 - (iii) all information required to be recorded under section 161 that relates to the campaign period; and
- (b) the auditor's report on the financial statement.

(2) The financial statement and auditor's report under subsection (1) shall be filed,

Idem

- (a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or
- (b) in the case of a new election, no later than 225 days after polling day.

Filing of
financial
statements
with clerk of
municipality

(3) The chief financial officer shall, at the time of filing with the Commission, file a copy of the financial statement and the auditor's report referred to under subsection (1) with the clerk of the municipality who was responsible for the conduct of the election for which the registered candidate was registered.

Commission
to prepare
statement

(4) After the time for the filing of a financial statement and auditor's report has expired, the Commission shall immediately prepare a statement disclosing,

- (a) the information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement or report under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Demand to
candidate to
file

(5) After the time for the filing of the financial statement and auditor's report has expired, the Commission shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement and report, a notice in the form prescribed by the Commission demanding that the registered candidate file a financial statement and auditor's report within thirty days from the date of the notice.

Contents of
demand
notice

(6) The notice under subsection (5) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not, is ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the financial statement and auditor's report within thirty days of the date of the notice.

Publication
of notice

(7) The Commission shall publish the notice under subsection (5) in a newspaper having general circulation in the municipality.

Commission
to prepare
supple-
mentary
statement

(8) After the thirty day period for the filing of a statement and report has expired, the Commission shall immediately prepare a supplementary statement disclosing,

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a financial statement and auditor's

report within the thirty day period allowed under subsection (5),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

SURPLUS

170.—(1) Where the financial statement of a registered candidate filed under section 169 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election. Surplus funds

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the clerk has been notified by the Commission under section 143 that the candidate has become registered under this Part for that election. Release of funds, regular elections

(3) Where the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk, upon being so notified by the Commission, shall release the surplus to the candidate for use in whole or in part in that new election. Idem, new elections

(4) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust under subsection (1) where the office for which the candidate has been, or will be, nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced. Restriction

(5) Where the candidate for whose benefit the surplus is held in trust under subsection (1), Disposal of surplus

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered,

in the next regular election, the surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Idem

(6) Upon the repeal of any by-law passed under section 139 or any resolution passed under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Ineligibility
respecting
future
elections

171.—(1) If a registered candidate,

- (a) fails to file a financial statement and auditor's report within thirty days of the date of the notice sent under subsection 169 (5);
- (b) files a financial statement and auditor's report that is either incorrect or does not comply with section 169 and fails to file a correction statement and report within thirty days from the date that the Commission files the statement under subsection 169 (5); or
- (c) incurs campaign expenses in excess of the amount permitted under section 166,

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

Forfeiture
of office

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Ineligibility
respecting
future
elections

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless before that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility
where surplus
not paid to
clerk

(2) Where,

Office
declared
vacant

- (a) a registered candidate is declared elected;
- (b) the financial statement of the candidate shows a surplus; and
- (c) the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170,

the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, to which the candidate was elected and the office to which the candidate was elected shall be immediately declared vacant and, in addition, the candidate is liable to any other penalty that may be imposed under this Act.

(3) Where the office to which a registered candidate was declared elected is subsequently declared vacant under subsection (2), the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless prior to that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility
respecting
future
elections

TAX CREDIT

173.—(1) Every individual who and every corporation or trade union which made a contribution to a candidate registered under this Part during the campaign period of an election may within one year of polling day apply, in the form prescribed by the Commission, to the clerk of the municipality who was responsible for conducting the election to receive a tax credit.

Tax credit

(2) The tax credit which a contributor is eligible to receive under subsection (1) is an amount equal to,

Amount of
tax credit

- (a) 75 per cent of the total amount contributed by the contributor to all candidates if the amount contributed does not exceed \$100;
- (b) \$75 plus 50 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$100 and does not exceed \$400; or
- (c) the lesser of,
 - (i) \$225 plus 33 1/3 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$400 if the total amount contributed exceeds \$400, and
 - (ii) \$350,

if payment of each amount that is included in the total amount contributed by the contributor to all registered candidates is proven by receipts in the form prescribed by the Commission that are signed by a recorded agent of the candidate.

Reduction of
tax credits

(3) A tax credit under subsection (2),

- (a) shall first be applied by the clerk to reduce any arrears in taxes or other debts then owing to the municipality by the contributor; and
- (b) may be applied to offset current taxes, at the request of the contributor.

Payment of
rebates

(4) Where the contributor does not owe any taxes or other debts to the municipality or does not make the request under clause (3) (b), the clerk shall pay to the contributor an amount equal to the amount of the tax credit which the contributor is eligible to receive under subsection (2).

Recovery of
tax credit

(5) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional or metropolitan municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional or metropolitan municipality by billing the regional or metropolitan municipality for that amount.

Recovery of
tax credit
from school
board

(6) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a reg-

istered candidate in a school board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the school board by billing the school board for that amount.

(7) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in a local board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the local board by billing the local board for that amount.

Recovery of
tax credit
from local
board

(8) No tax credit shall be provided to a contributor under subsection (3) or (4) until the Commission has notified the clerk in writing that all of the financial statements and auditor's reports filed with it by the chief financial officers of the registered candidates in the election as required by section 169 have been examined.

Condition for
giving tax
credits

(9) Tax credits shall be issued to contributors only during the one-year period following receipt of the notice given by the Commission under subsection (8).

Time
restriction

(10) No tax credit shall be provided to a contributor under subsection (3) or (4) for a contribution to a registered candidate where the chief financial officer of the candidate has failed to file the financial statement and auditor's report required by section 169 or where the financial statement and auditor's report of the candidate have been found by the Commission to be unsatisfactory.

Refusal of
tax credit

(11) In this section, "tax credit" includes a rebate of contributions.

Interpretation

ACCESS TO DOCUMENTS

174.—(1) Documents filed with the Commission or the clerk of a municipality under this Part are public records and may be inspected by any person upon request at the office of the Commission or of the clerk during normal office hours.

Inspection of
documents

(2) Any person may make extracts from the documents referred to in subsection (1) and is entitled to copies of the documents upon payment for the preparation of the copies at such rate as the Commission may determine or at such rate as the clerk charges for the preparation of copies of other documents.

Extracts and
copies

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the

Not to be
used for
commercial
solicitation

Commission or the clerk under this Part for the purpose of commercial solicitation.

FORMS

Form

175. All applications, returns, statements and other documents to be filed with the Commission shall be filed in the form prescribed by the Commission.

POWERS AND DUTIES OF COMMISSION

Powers and
duties of
Commission
1986, c. 33

176. Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission in the administration of this Part.

OFFENCES

Offence,
chief
financial
officer

177.—(1) The chief financial officer of a registered candidate who contravenes section 169 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Idem,
candidate

(2) Where any contravention of this Part that is an offence by virtue of subsection (1) is committed by a chief financial officer of a registered candidate, the candidate for which the chief financial officer acts is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence,
candidate

178. Where the total campaign expenses incurred by a registered candidate and any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 166 for the office subject to election, the registered candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 166.

Offence,
candidate

179. Where the financial statement of a registered candidate shows a surplus and the surplus is not paid over to the clerk as required by section 170, the candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount of the surplus.

Offence,
corporations,
trade union

180. Every corporation or trade union that contravenes any of sections 143 to 174 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

181. Every individual who contravenes any of sections 143 to 174, except subsection 148 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence,
individuals

182. No person shall obstruct a person making an investigation or examination under this Part or withhold, conceal or destroy or alter any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

Obstruction
of prohibited

183. No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the Commission under this Part.

Prohibition,
false
statements

184. No person shall knowingly give false information to a chief financial officer or other person authorized to accept contributions.

Prohibition,
false
information

185.—(1) A prosecution for an offence under this Part may be instituted against a trade union in the name of the trade union and, for the purposes of any prosecution, the trade union shall be deemed to be a person.

Prosecution
of trade
unions

(2) Any act or thing done or omitted by an officer or agent of a trade union within the scope of the officer's or agent's authority on behalf of the trade union shall be deemed to be an act or thing done or omitted by the trade union.

Trade union
liable for acts
of agents

186. No prosecution shall be instituted under this Part without the consent of the Commission and no prosecution shall be instituted more than one year after the facts upon which the prosecution is based first came to the knowledge of the Commission.

Consent of
Commission

13. Section 37 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by inserting after "qualified" in the first line "to be elected or".

14. Section 38 of the said Act is amended by adding thereto the following subsection:

(1a) A member of council who ceases to hold the qualifications required under clause 37 (a) is disqualified from holding the office of member of council.

Member to
maintain
eligibility

15.—(1) For the purpose of the 1988 regular elections, the campaign period commences on the day this Act comes into force.

Transition

(2) For the purpose of the 1988 regular elections, a municipality, school board or local board may pass a by-law or reso-

Idem

lution to have Part III apply to the election if the by-law or resolution is passed within sixty days after the coming into force of this Act.

Commence-
ment

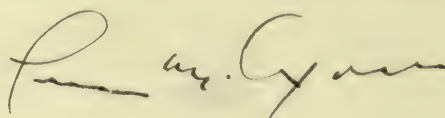
16.—(1) This Act, except section 3, comes into force on the day it receives Royal Assent.

Idem

(2) Section 3 comes into force on the 1st day of January, 1991.

Short title

17. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1988*.

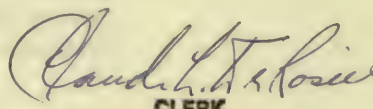


Bill 107

*(Chapter 36
Statutes of Ontario, 1988)*

An Act to amend the Child and Family Services Act, 1984

The Hon. J. Sweeney
Minister of Community and Social Services



**CLERK
LEGISLATIVE ASSEMBLY**

<i>1st Reading</i>	April 7th, 1988
<i>2nd Reading</i>	May 24th, 1988
<i>3rd Reading</i>	June 22nd, 1988
<i>Royal Assent</i>	June 22nd, 1988

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION

PASSED BY THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1887

AND

IN RESPONSE TO A RESOLUTION

LEGISLATIVE ASSEMBLY
OF THE

REPORT OF THE	COMMISSIONERS OF THE
LAND OFFICE	IN RESPONSE TO A
RESOLUTION PASSED BY THE	HOUSE OF REPRESENTATIVES,
JANUARY 18, 1887	

Bill 107

1988

**An Act to amend the
Child and Family Services Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 40 (2) of the *Child and Family Services Act, 1984*, being chapter 55, is repealed and the following substituted therefor:

(2) A justice of the peace may issue a warrant authorizing a child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a child protection worker's sworn information that there are reasonable and probable grounds to believe that,

Warrant to
apprehend
child

(a) the child is in need of protection; and

(b) a less restrictive course of action is not available or will not protect the child adequately.

(2a) A justice of the peace shall not refuse to issue a warrant under subsection (2) by reason only that the child protection worker may bring the child to a place of safety under subsection (6). Idem

(2) Subsection 40 (4) of the said Act is amended by adding at the end thereof "or to specify the premises where the child is located".

(3) Subsection 40 (5) of the said Act is amended by striking out "the" in the third line and inserting in lieu thereof "any".

(4) Clause 40 (6) (a) of the said Act is repealed and the following substituted therefor:

(a) a child is in need of protection; and

(5) Subsections 40 (10) to (17) of the said Act are repealed and the following substituted therefor:

Right of
entry, etc.

(10) A child protection worker who believes on reasonable and probable grounds that a child referred to in subsection (6) is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Regulations
re power of
entry

(11) A child protection worker authorized to enter premises under subsection (5) or (10) shall exercise the power of entry in accordance with the regulations.

Peace officer
has powers
of child
protection
worker

(12) Subsections (2), (5), (6), (9), (10) and (11) apply to a peace officer as if the peace officer were a child protection worker.

Protection
from
personal
liability

(13) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or for an alleged neglect or default in the execution in good faith of that duty.

2. The said Act is amended by adding thereto the following sections:

SPECIAL CASES OF APPREHENSION OF CHILDREN

Warrant to
apprehend
child in care

40a.—(1) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a peace officer's or child protection worker's sworn information that,

- (a) the child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there are reasonable and probable grounds to believe that there is no course of action available other than bringing the child to a place of safety that would adequately protect the child.

Idem

(2) A justice of the peace shall not refuse to issue a warrant to a person under subsection (1) by reason only that the person may bring the child to a place of safety under subsection (4).

No need to
specify
premises

(3) It is not necessary in a warrant under subsection (1) to specify the premises where the child is located.

(4) A peace officer or child protection worker who believes on reasonable and probable grounds that,

Apprehension of child in care without warrant

- (a) a child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there would be a substantial risk to the child's health or safety during the time necessary to obtain a warrant under subsection (1),

may without a warrant bring the child to a place of safety.

(5) Where a child is detained under this Part in a place of safety that has been designated as a place of open temporary detention as defined in Part IV (Young Offenders) and leaves the place without the consent of,

Apprehension of child absent from place of open temporary detention

- (a) the society having care, custody and control of the child; or
- (b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant.

(6) A person who apprehends a child under subsection (5) shall, Idem

- (a) take the child to a place of safety to be detained until the child can be returned to the place of safety the child left; or
- (b) return the child or arrange for the child to be returned to the place of safety the child left.

40b.—(1) A peace officer who believes on reasonable and probable grounds that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and on doing so,

Apprehension of child under twelve

- (a) shall return the child to the child's parent or other person having charge of the child as soon as practicable; or

- (b) where it is not possible to return the child to the parent or other person within a reasonable time, shall take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to
parent, etc.

(2) The person in charge of a place of safety in which a child is detained under subsection (1) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child
not returned
to parent,
etc., within
twelve hours

(3) Where a child detained in a place of safety under subsection (1) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (6) and not apprehended under subsection (1).

Definition

40c.—(1) In this section, “parent” includes,

- (a) an approved agency that has custody of the child;
- (b) a person who has care and control of the child.

Warrant to
apprehend
runaway
child

(2) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to apprehend a child if the justice of the peace is satisfied on the basis of the sworn information of a parent of the child that,

- (a) the child is under the age of sixteen years;
- (b) the child has withdrawn from the parent's care and control without the parent's consent; and
- (c) the parent believes on reasonable and probable grounds that the child's health or safety may be at risk if the child is not apprehended.

Idem

(3) A person who apprehends a child under subsection (2) shall return the child to the child's parent as soon as practicable and where it is not possible to return the child to the parent within a reasonable time, take the child to a place of safety.

Notice to
parent, etc.

(4) The person in charge of a place of safety to which a child is taken under subsection (3) shall make reasonable efforts to notify the child's parent that the child is in the place of safety so that the child may be returned to the parent.

(5) Where a child taken to a place of safety under subsection (3) cannot be returned to the child's parent within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (2) and not apprehended under subsection (2).

Where child not returned to parent within twelve hours

(6) A justice of the peace shall not issue a warrant under subsection (2) where a child has withdrawn from the care and control of one parent with the consent of another parent under circumstances where a proceeding under section 37 of the *Children's Law Reform Act* would be more appropriate.

Where custody enforcement proceedings more appropriate
R.S.O. 1980, c. 68

(7) It is not necessary in a warrant under subsection (2) to specify the premises where the child is located.

No need to specify premises

(8) Where a peace officer or child protection worker believes on reasonable and probable grounds that a child apprehended under this section is in need of protection and there may be a substantial risk to the health or safety of the child if the child were returned to the parent,

Child protection proceedings

- (a) the peace officer or child protection worker may take the child to a place of safety under subsection 40 (6); or
- (b) where the child has been taken to a place of safety under subsection (5), the child shall be dealt with as if the child had been taken there under subsection 40 (6).

POWER OF ENTRY AND OTHER PROVISIONS FOR SPECIAL CASES OF APPREHENSION

40d.—(1) A person authorized to bring a child to a place of safety by a warrant issued under subsection 40a (1) or 40c (2) may at any time enter any premises specified in the warrant, by force, if necessary, and may search for and remove the child.

Authority to enter, etc.

(2) A person authorized under subsection 40a (4) or (5) or 40b (1) who believes on reasonable and probable grounds that a child referred to in the relevant subsection is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Right of entry, etc.

(3) A person authorized to enter premises under this section shall exercise the power of entry in accordance with the regulations.

Regulations re power of entry

Police
assistance

(4) A child protection worker acting under section 40a or 40c may call for the assistance of a peace officer.

Consent to
examine child

(5) A child protection worker who deals with a child under subsection 40b (3) or 40c (5) as if the child had been taken to a place of safety may authorize the child's medical examination where a parent's consent would otherwise be required.

Place of
open
temporary
detention

(6) Where a person who brings a child to a place of safety under section 40a or 40b believes on reasonable and probable grounds that no less restrictive course of action is feasible, the child may be detained in a place of safety that is a place of open temporary detention as defined in Part IV (Young Offenders).

Protection
from
personal
liability

(7) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or section 40a, 40b or 40c or for an alleged neglect or default in the execution in good faith of that duty.

3. Subsection 42 (2) of the said Act is amended by striking out "under subsection 43 (1) (child protection hearing)" in the fourth and fifth lines.

4. Subsection 43 (1) of the said Act is amended by inserting after "40 (1)" in the second line "or a matter is brought before the court".

5. Section 48 of the said Act is amended by inserting after "40 (1)" in the first line "or a matter is brought before the court".

6. Subsection 74 (2) of the said Act is amended by inserting after "40" in the second line "or 40d".

7. Subsections 75 (5) and (6) of the said Act are repealed and the following substituted therefor:

Allowing
child to
loiter, etc.

(5) No parent of a child less than sixteen years of age shall permit the child to,

- (a) loiter in a public place between the hours of midnight and 6 a.m.; or
- (b) be in a place of public entertainment between the hours of midnight and 6 a.m., unless the parent accompanies the child or authorizes a specified individual eighteen years of age or older to accompany the child.

(6) Where a child who is actually or apparently less than sixteen years of age is in a place to which the public has access between the hours of midnight and 6 a.m. and is not accompanied by a person described in clause (5) (b), a peace officer may apprehend the child without a warrant and proceed as if the child had been apprehended under subsection 40b (1).

Police may take child home or to place of safety

8. Clause 80 (b) of the said Act is repealed and the following substituted therefor:

- (b) obstruct, interfere with or attempt to obstruct or interfere with a child protection worker or a peace officer who is acting under section 40, 40a, 40b, 40c or 40d.

9. Subsection 89 (2) of the said Act is repealed and the following substituted therefor:

(2) A provincial director may detain a young person in a place of secure temporary detention if the circumstances described in paragraph 1 or 2 apply to the young person and if the provincial director is satisfied that it is necessary to detain the young person in a place of secure temporary detention to ensure the young person's attendance in court or to protect the public interest or safety:

Where secure detention available

1. The young person is charged with an offence for which an adult would be liable to imprisonment for five years or more and,
 - i. the offence includes causing or attempting to cause serious bodily harm to another person,
 - ii. the young person has, at any time, failed to appear in court when required to do so under the federal Act or the *Juvenile Delinquents Act* (Canada) or escaped or attempted to escape from lawful detention, or
 - iii. the young person has, within the twelve months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more.
2. The young person is detained in a place of temporary detention and leaves or attempts to leave without the consent of the person in charge or is charged with having escaped or attempting to

R.S.C. 1970,
c. J-3

R.S.C. 1970,
c. C-34

escape from lawful custody or being unlawfully at large under the *Criminal Code* (Canada).

10.—(1) Subsections 94 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

Apprehen-
sion of young
person absent
from place of
temporary
detention

R.S.O. 1980,
c. 400

(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the federal Act or the *Provincial Offences Act* in a place of temporary detention has left the place without the consent of the person in charge and fails or refuses to return there may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of temporary detention.

Idem: place
of open
custody

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 91,

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 91 (b),

may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of open custody or a place of temporary detention.

Young
person to be
returned
within forty-
eight hours

(3) A young person who is apprehended under this section shall be returned to the place from which he or she is absent within forty-eight hours after being apprehended unless the provincial director detains the young person in secure temporary detention under paragraph 2 of subsection 89 (2).

(2) Subsections 94 (5) and (6) of the said Act are repealed and the following substituted therefor:

Authority to
enter, etc.

(5) Where a person authorized to apprehend a young person under subsection (1) or (2) believes on reasonable and probable grounds that a young person referred to in the relevant subsection is on any premises, the person may with or without a warrant enter the premises, by force, if necessary, and search for and remove the young person.

(6) A person authorized to enter premises under subsection (5) shall exercise the power of entry in accordance with the regulations.

Regulations re exercise of power of entry

11.—(1) Paragraph 2 of subsection 110 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:

- ii. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application, or

(2) Subsections 110 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) Where an application is made under subsection (1), the court shall deal with the matter within ten days of the making of an order under subsection (5) (legal representation) or, where no such order is made, within ten days of the making of the application.

Time for hearing

(3) Section 110 of the said Act is amended by adding thereto the following subsections:

(4a) Where a hearing is adjourned, the court may make a temporary order for the child's commitment to a secure treatment program if the court is satisfied that the child meets the criteria for commitment set out in clauses 113 (1) (a) to (f) and, where the child is less than twelve years old, the Minister consents to the child's admission.

Interim order

(4b) For the purpose of subsection (4a), the court may admit and act on evidence that the court considers credible and trustworthy in the circumstances.

Evidence on adjournments

12. Subsection 111 (3) of the said Act is amended by striking out “a single 180 day” in the second line and inserting in lieu thereof “the”.

13. Subsection 112 (4) of the said Act is amended by adding thereto the following clause:

- (da) a society that has custody of the child under an order made under Part III (Child Protection).

14. Subsections 114 (1) and (2) of the said Act are repealed and the following substituted therefor:

Period of
commitment

(1) The court shall specify in an order under subsection 113 (1) the period not exceeding 180 days for which the child shall be committed to the secure treatment program.

Where
society is
applicant

(2) Where a child is committed to a secure treatment program on a society's application and the period specified in the court's order is greater than sixty days, the child shall be released on a day sixty days after the child's admission to the secure treatment program unless before that day,

- (a) the child's parent consents to the child's commitment for a longer period; or
- (b) the child is made a Crown or society ward under Part III (Child Protection),

but in no case shall the child be committed to the secure treatment program for longer than the period specified under subsection (1).

15.—(1) Section 116 of the said Act is amended by adding thereto the following subsection:

Idem

(1a) Where a person is kept in the secure treatment program under subsection 114 (4) after attaining the age of eighteen years,

- (a) the person, with the written consent of the administrator;
- (b) the person's parent, with the written consent of the person and the administrator;
- (c) a physician, with the written consent of the administrator and the person; or
- (d) the administrator, with the written consent of the person,

may, before the expiry of the period of commitment, apply for one further order extending the person's commitment to the secure treatment program.

(2) Subsection 116 (2) of the said Act is amended by inserting after "(1)" in the first line "or (1a)".

(3) Subsection 116 (3) of the said Act is amended by adding at the end thereof "or (1a)".

(4) Subsection 116 (5) of the said Act is repealed and the following substituted therefor:

(5) The court shall specify in an order under subsection 116 (4) the period not exceeding 180 days for which the child shall be committed to the secure treatment program. Period of extension

16. The said Act is further amended by adding thereto the following sections:

REVIEW OF COMMITMENT

117a.—(1) Any one of the following persons may apply to the court for an order terminating an order made under subsection 113 (1) (commitment) or 116 (4) (extension): Review of commitment

1. The child, where the child is twelve years of age or more.
2. The child's parent.
3. The society having care, custody or supervision of the child.

(2) Subsections 110 (4), (5), (6), (7) and (8) (hearing) and sections 111 (child's waiver) and 112 (assessment) apply with necessary modifications to an application made under subsection (1). ss. 110 (4-8), 111, 112 apply

(3) The court shall make an order terminating a child's commitment unless the court is satisfied that, Termination of order

- (a) the child has a mental disorder;
- (b) the secure treatment program would continue to be effective to prevent the child from causing or attempting to cause serious bodily harm to himself, herself or another person;
- (c) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances; and
- (d) the child is receiving the treatment proposed at the time of the most recent order under subsection 113 (1) or 116 (4), or other appropriate treatment.

(4) In making an order under subsection (3), the court shall consider whether there is an appropriate plan for the child's care on release from the secure treatment program. Idem

ss. 116 (2-5),
117, 117a
apply

117b. Subsections 116 (2), (3), (4) and (5) and sections 117 and 117a apply with necessary modifications to a person who is eighteen years of age or older and committed to a secure treatment program as if the person were a child.

17.—(1) Paragraph 2 of subsection 118 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:

- ii. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application, or

(2) Subsection 118 (2) of the said Act is amended by inserting after “subsection (1)” in the second line “for a period not to exceed thirty days”.

(3) Clause 118 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) the child has, as a result of the mental disorder, caused, attempted to cause or by words or conduct made a substantial threat to cause serious bodily harm to himself, herself or another person.

(4) Subsection 118 (6) of the said Act is repealed and the following substituted therefor:

Notices
required

(6) The administrator shall ensure that within twenty-four hours after a child is admitted to a secure treatment program under subsection (2),

- (a) the child is given written notice of his or her right to a review under subsection (9); and
- (b) the Office of Child and Family Service Advocacy and the Official Guardian are given notice of the child's admission.

Mandatory
advice

(7) The Office of Child and Family Service Advocacy shall ensure that forthwith after the notice is received a person who is not employed by the secure treatment facility explains to the child his or her right to a review in language suitable for the child's level of understanding.

Official
Guardian to
ensure child
represented

(8) The Official Guardian shall represent the child at the earliest possible opportunity and in any event within five days

after receiving a notice under subsection (6) unless the Official Guardian is satisfied that another person will provide legal representation for the child within that time.

(9) Where a child is admitted to a secure treatment program under this section, any person, including the child, may apply to the Board for an order releasing the child from the secure treatment program.

Application
for review

(10) Where an application is made under subsection (9), the child may be kept in the secure treatment program until the application is disposed of.

Child may be
kept in
program
while
application
pending
Procedure

(11) Subsections 110 (6), (7) and (8) (hearing) and section 111 (waive oral evidence) apply with necessary modifications to an application made under subsection (9).

(12) Where an application is made under subsection (9), the Board shall dispose of the matter within five days of the making of the application.

Time for
review

(13) The Board shall make an order releasing the child from the secure treatment program unless the Board is satisfied that the child meets the criteria for emergency admission set out in clauses 118 (2) (a) to (e).

Order

18. Section 119 of the said Act is amended by adding thereto the following subsections:

(2) Where a child who has been admitted to a secure treatment program leaves the facility in which the secure treatment program is located without the consent of the administrator, a peace officer may apprehend the child with or without a warrant and return the child to the facility.

Apprehen-
sion of child
who leaves

(3) Where a child is returned to a facility under subsection (2), the time that the child was absent from the facility shall not be taken into account in calculating the period of commitment.

Period of
commitment

19. Subsection 125 (2) of the said Act is amended by inserting after "child" in the third line "who has been admitted to a secure treatment program under this Part".

20. Clause 126 (2) (c) of the said Act is amended by striking out "any" in the first line and inserting in lieu thereof "the".

21. The said Act is further amended by adding thereto the following section:

Definition

166a.—(1) In this section, “record of a mental disorder” means a record or a part of a record made about a person concerning a substantial disorder of emotional processes, thought or cognition of the person which grossly impairs the person’s capacity to make reasoned judgments.

Disclosure pursuant to subpoena

(2) A service provider shall disclose, transmit or permit the examination of a record of a mental disorder pursuant to a subpoena, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act unless a physician states in writing that he or she believes that to do so,

(a) is likely to result in harm to the treatment or recovery of the person to whom the record relates; or

(b) is likely to result in,

(i) injury to the mental condition of another person, or

(ii) bodily harm to another person.

Hearing to be held

(3) The court before which a matter described in subsection (2) is in issue on motion or, where a disclosure, transmittal or examination is not required by a court, the Divisional Court on motion shall determine whether the record referred to in the physician’s statement should be disclosed, transmitted or examined.

Idem

(4) A motion under subsection (3) shall be on notice to the physician and shall be held in the absence of the public.

Consideration of court

(5) In a motion under subsection (3), the court shall consider whether or not the disclosure, transmittal or examination of the record referred to in the physician’s statement is likely to have a result described in clause (2) (a) or (b) and for the purpose the court may examine the record.

Order of court

(6) The court shall not order that the record referred to in the physician’s statement be disclosed, transmitted or examined if the court is satisfied that a result described in clause (2) (a) or (b) is likely unless satisfied that to do so is essential in the interests of justice.

(7) Where a record of a mental disorder is required under this section, the clerk of the court or body in which it is admitted in evidence or, if not so admitted, the person to whom the record is transmitted shall return the record to the service provider forthwith after the determination of the matter in issue in respect of which the record was required.

Return of
record to
service
provider

22.—(1) Clause 199 (a) of the said Act is amended by striking out “(14)” in the second line and inserting in lieu thereof “(10) and section 40d”.

(2) Section 199 of the said Act is amended by adding thereto the following clause:

(h) prescribing forms and providing for their use.

23. Clause 200 (1) (m) of the said Act is amended by striking out “by a warrant issued under subsection 94 (4)” in the second line and inserting in lieu thereof “under subsection 94 (5)”.

24.—(1) Clause 202 (a) of the said Act is amended by striking out “children” in the first line and inserting in lieu thereof “persons”.

(2) Clause 202 (i) of the said Act is amended by striking out “or combinations of drugs” in the first line and inserting in lieu thereof “combinations of drugs or classes of drugs”.

25. A child who is a patient in a psychiatric facility under a certificate of involuntary admission under the *Mental Health Act* on the day this section comes into force and who is in premises where a secure treatment program has been established or approved shall be deemed to have been committed to the secure treatment program under section 113 for a period that ends when the certificate expires.

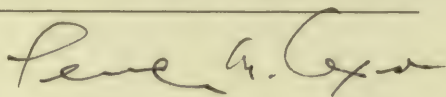
Transition
R.S.O. 1980,
c. 262

26. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

27. The short title of this Act is the *Child and Family Services Amendment Act, 1988*.

Short title

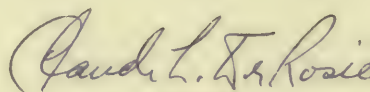


Bill 108

*(Chapter 22
Statutes of Ontario, 1988)*

An Act to amend the Rental Housing Protection Act, 1986

The Hon. C. Hošek
Minister of Housing



CLERK
LEGISLATIVE ASSEMBLY

<i>1st Reading</i>	April 7th, 1988
<i>2nd Reading</i>	May 16th, 1988
<i>3rd Reading</i>	May 17th, 1988
<i>Royal Assent</i>	May 24th, 1988

Bill 108**1988**

**An Act to amend the
Rental Housing Protection Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 12 (2) of the *Rental Housing Protection Act, 1986*, being chapter 26, is amended by striking out “the 30th day of June, 1988” in the second and third lines and inserting in lieu thereof “the 30th day of June, 1989”.

2. Section 13 of the said Act is repealed and the following substituted therefor:

13. This Act, except subsection 12 (2), is repealed on the 30th day of June, 1989. Repeal

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Rental Housing Protection Amendment Act, 1988*. Short title

Bill 109

1ST SESSION, 34TH LEGISLATURE, ONTARIO
37 ELIZABETH II, 1988

Bill 109

(Chapter 47
Statutes of Ontario, 1988)

An Act to establish a French-language School Board for The Regional Municipality of Ottawa-Carleton

The Hon. C. Ward
Minister of Education

1st Reading April 11th, 1988
2nd Reading May 3rd, 1988
3rd Reading June 29th, 1988
Royal Assent June 29th, 1988

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Projet de loi 109

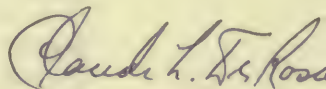
1^{re} SESSION, 34^e LÉGISLATURE, ONTARIO
37 ELIZABETH II, 1988

Projet de loi 109

(Chapitre 47
Lois de l'Ontario de 1988)

Loi portant création d'un Conseil scolaire de langue française pour la municipalité régionale d'Ottawa-Carleton

L'honorable C. Ward
ministre de l'Éducation



CLERK
LEGISLATIVE ASSEMBLY

1^{re} lecture 11 avril 1988
2^e lecture 3 mai 1988
3^e lecture 29 juin 1988
sanction royale 29 juin 1988

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Bill 109**1988**

**An Act to establish
a French-language School Board for
The Regional Municipality of Ottawa-Carleton**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Projet de loi 109**1988**

**Loi portant création d'un
Conseil scolaire de langue française pour
la municipalité régionale d'Ottawa-Carleton**

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

INTERPRETATION

Definitions

1.—(1) In this Act,

- “municipalité de secteur” “area municipality” means the municipality or corporation of the Township of Cumberland, the City of Gloucester, the Township of Goulbourn, the City of Kanata, the City of Nepean, the Township of Osgoode, the City of Ottawa, the Township of Rideau, the Village of Rockcliffe Park, the City of Vanier or the Township of West Carleton;
- “Commission”
R.S.O. 1980,
c. 129 “Commission” means the Languages of Instruction Commission of Ontario continued under Part XI of the *Education Act*;
- “conseil de langue anglaise” “English-language board” means The Ottawa Board of Education, The Carleton Board of Education, The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board;
- “Conseil de langue française” “French-language Board” means The Ottawa-Carleton French-language School Board;
- “module scolaire de langue française” “French-language instructional unit” means a class, group of classes or school in which French is the language of instruction, but does not include a class, group of classes or school established under clause 8 (1) (y) of the *Education Act* (French-language instruction for English-speaking pupils);
- “franco-phone” “French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario;
- “conseil plénier” “full board” means all of the members of the French-language Board;
- “ministre” “Minister” means the Minister of Education;
- “section publique” “public sector” means those members of the French-language Board who are elected as members of the public sector;
- “Région” “Region” means The Regional Municipality of Ottawa-Carleton;
- “section catholique” “Roman Catholic sector” means those members of the French-language Board who are elected as members of the Roman Catholic sector;

INTERPRÉTATION

1 (1) Les définitions qui suivent s'appliquent à la présente loi.	Définitions
«Commission» La Commission des langues d'enseignement de l'Ontario maintenue aux termes de la partie XI de la <i>Loi sur l'éducation</i> .	«Commission» L.R.O. 1980 chap. 129
«conseil de langue anglaise» Le Conseil de l'éducation d'Ottawa, le Conseil de l'éducation de Carleton, le Conseil des écoles séparées catholiques d'Ottawa ou le Conseil des écoles séparées catholiques de Carleton.	«English-language board»
«Conseil de langue française» Le Conseil scolaire de langue française d'Ottawa-Carleton.	«French-language Board»
«conseil plénier» L'ensemble des membres du Conseil de langue française.	«full board»
«francophone» Personne qui a le droit, en vertu du paragraphe 23 (1) ou (2), sans tenir compte du paragraphe 23 (3), de la <i>Charte canadienne des droits et libertés</i> , de faire instruire ses enfants en français, aux niveaux élémentaire et secondaire, en Ontario.	«French-speaking person»
«ministre» Le ministre de l'Éducation.	«Minister»
«module scolaire de langue française» S'entend d'une classe, d'un groupe de classes ou d'une école dans lesquelles le français est la langue d'enseignement, à l'exclusion toutefois d'une classe, d'un groupe de classes ou d'une école créées en vertu de l'alinéa 8 (1) y) de la <i>Loi sur l'éducation</i> (enseignement en langue française à l'intention des élèves anglophones).	«French-language instructional unit»
«municipalité de secteur» La municipalité du canton de Cumberland, de la cité de Gloucester, du canton de Goulbourn, de la cité de Kanata, de la cité de Nepean, du canton d'Osgoode, de la cité d'Ottawa, du canton de Rideau, du village de Rockcliffe Park, de la cité de Vanier ou du canton de Carleton ouest.	«area municipality»
«organisation scolaire» S'entend d'un conseil d'écoles séparées dans la Région, d'un conseil d'écoles publiques dans la Région, de la section publique ou de la section catholique.	«school system»
«Région» La municipalité régionale d'Ottawa-Carleton.	«Region»
«section catholique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section catholique.	«Roman Catholic sector»

- "organisation scolaire" "school system" means a separate school board in the Region, a public board in the Region, the public sector or the Roman Catholic sector.
- Regulations under R.S.O. 1980, c. 129 (2) A reference in this Act to the *Education Act* or to a provision of it shall be deemed to include a reference to the regulations made under that Act or provision.
- Definitions under R.S.O. 1980, c. 129 (3) Except where otherwise provided in this Act, words and expressions used in this Act have the same meaning as in section 1 of the *Education Act*.
- Application of R.S.O. 1980, c. 129, s. 1 (4) Subsections 1 (2) and (4) of the *Education Act* apply with necessary modifications in respect of the French-language Board.
- Application of Constitution Act, 1867 (5) The provisions of this Act shall not be construed in a way that prejudicially affects a right or privilege with respect to denominational schools guaranteed by *The Constitution Act, 1867*.
- Idem (6) If it is finally determined by a court that a provision of this Act prejudicially affects a right or privilege enjoyed by Roman Catholic separate school boards under *The Constitution Act, 1867*, that provision is repealed, it being the intention of the Legislature that the remaining provisions of this Act are separate from and independent of the said provision.

PART I

FRENCH-LANGUAGE SCHOOL BOARD ESTABLISHED

- French-language school board **2.—**(1) There is established on the 1st day of December, 1988 a school board for French-language instruction in the Region under the name "The Ottawa-Carleton French-language School Board".
- Idem (2) The French-language Board is a body corporate.
- Jurisdiction of French-language Board R.S.O. 1980, c. 129 (3) On and after the 1st day of January, 1989, the French-language Board has all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in French-language instructional units.

«section publique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section publique.

«public sector»

(2) Dans la présente loi, un renvoi à la *Loi sur l'éducation* ou à une disposition de celle-ci est réputé inclure un renvoi aux règlements pris en application de cette loi ou de cette disposition.

Règlements pris en application du chap. 129 des L.R.O. de 1980

(3) Sauf dispositions contraires de la présente loi, les termes et expressions utilisés dans la présente loi s'entendent au sens de l'article 1 de la *Loi sur l'éducation*.

Définitions du chap. 129 des L.R.O. de 1980

(4) Les paragraphes 1 (2) et (4) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard du Conseil de langue française.

Champ d'application de l'art. 1 du chap. 129 des L.R.O. de 1980

(5) Les dispositions de la présente loi ne doivent pas être interprétées de façon à porter préjudice à un droit ou à un privilège en ce qui concerne les écoles confessionnelles qui est garanti par la *Loi constitutionnelle de 1867*.

Champ d'application de la *Loi constitutionnelle de 1867*

(6) Si un tribunal décide finalement qu'une disposition de la présente loi porte préjudice à un droit ou à un privilège en ce qui concerne les écoles confessionnelles qui est garanti par la *Loi constitutionnelle de 1867*, cette disposition est abrogée, l'intention du législateur étant que les autres dispositions de la présente loi soient distinctes et indépendantes de cette disposition.

Idem

PARTIE I

CRÉATION DU CONSEIL SCOLAIRE DE LANGUE FRANÇAISE

2 (1) Est créé, le 1^{er} décembre 1988, un conseil scolaire chargé de l'enseignement en langue française dans la Région. Il porte le nom de «Conseil scolaire de langue française d'Ottawa-Carleton».

Conseil scolaire de langue française

(2) Le Conseil de langue française est une personne morale.

Idem

(3) À compter du 1^{er} janvier 1989, le Conseil de langue française possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les modules scolaires de langue française.

Compétence du Conseil de langue française L.R.O. 1980, chap. 129

Jurisdiction
of English-
language
boards
R.S.O. 1980,
c. 129

(4) On and after the 1st day of January, 1989, the English-language boards have all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in classes, groups of classes or schools other than French-language instructional units.

French-
language
instruction

(5) On and after the 1st day of January, 1989, Parts XI and XI-A of the *Education Act* do not apply to the English-language boards.

Composition
of French-
language
Board

3.—(1) The French-language Board shall have a public sector and a Roman Catholic sector.

Full board

(2) The members of the public sector and the members of the Roman Catholic sector together constitute the full board.

Authority of
public sector

(3) The public sector shall govern for the French-language Board the public elementary and secondary schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of
Roman
Catholic
sector

(4) The Roman Catholic sector shall govern for the French-language Board the Roman Catholic elementary and secondary schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of
full board

(5) The full board shall exercise the powers, duties and rights assigned to it by this Act.

Matters
within
exclusive
jurisdiction
of sectors

(6) Any power, duty or right assigned to the public sector or to the Roman Catholic sector is within the exclusive jurisdiction of the members of the sector to which it is assigned, and a decision of those members with regard to that power, duty or right is a decision of the French-language Board.

Matters
within
exclusive
jurisdiction
of full board

(7) Any power, duty or right assigned to the full board is within the exclusive jurisdiction of the full board and a decision of the full board with regard to that power, duty or right is a decision of the French-language Board.

PART II

JURISDICTION OF FULL BOARD AND SECTORS

Exclusive
jurisdiction
of sectors

4.—(1) The following matters are within the exclusive jurisdiction of the public sector in respect of the schools and classes that it governs and within the exclusive jurisdiction of the Roman Catholic sector in respect of the schools and classes that it governs:

(4) À compter du 1^{er} janvier 1989, les conseils de langue anglaise possèdent tous les pouvoirs et accomplissent toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les classes, les groupes de classes ou les écoles autres que les modules scolaires de langue française.

Compétence des conseils de langue anglaise
L.R.O. 1980, chap. 129

(5) À compter du 1^{er} janvier 1989, les parties XI et XI-A de la *Loi sur l'éducation* ne s'appliquent pas aux conseils de langue anglaise.

Enseignement en français

3 (1) Le Conseil de langue française comprend une section publique et une section catholique.

Composition du Conseil de langue française

(2) Les membres de la section publique et les membres de la section catholique constituent ensemble le conseil plénier.

Conseil plénier

(3) La section publique gère, pour le Conseil de langue française, les écoles et les classes élémentaires et secondaires publiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat de la section publique

(4) La section catholique gère, pour le Conseil de langue française, les écoles et les classes élémentaires et secondaires catholiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat de la section catholique

(5) Le conseil plénier exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat du conseil plénier

(6) Les pouvoirs, les fonctions ou les droits attribués à la section publique ou à la section catholique relèvent de la compétence exclusive des membres de la section à laquelle ils sont attribués, et une décision de ces membres à l'égard de ces pouvoirs, fonctions ou droits est une décision du Conseil de langue française.

Questions relevant de la compétence exclusive des sections

(7) Les pouvoirs, les fonctions ou les droits attribués au conseil plénier relèvent de la compétence exclusive du conseil plénier, et une décision de celui-ci à l'égard de ces pouvoirs, fonctions ou droits est une décision du Conseil de langue française.

Questions relevant de la compétence exclusive du conseil plénier

PARTIE II

COMPÉTENCE DU CONSEIL PLÉNIER ET DES SECTIONS

4 (1) Les questions suivantes relèvent de la compétence exclusive de la section publique relativement aux écoles et aux classes qu'elle gère, et de la compétence exclusive de la sec-

Compétence exclusive des sections

1. Planning, establishing and financing instructional units.
2. Administering and closing instructional units.
3. Planning, establishing, implementing and maintaining programs and courses for pupils enrolled in the instructional units.
4. Providing instructional and learning materials.
5. Schools for trainable retarded children and vocational courses.
6. School attendance and visitors to schools.
7. Admitting pupils and entering into agreements with other boards and with the other sector concerning the admission of pupils.
8. Issuing debentures.
9. Investing and borrowing money.
10. Receiving revenue for school purposes, including but not limited to grants and money from municipal levies.
11. Appointing, assigning and removing teachers and other employees in respect of matters within the sector's jurisdiction.
12. Appointing the secretary for the sector.
13. Prescribing the duties of teachers and other employees.
14. Any matter relating to meetings and records of the sector.
15. Advisory committees and special education advisory committees.
16. Counselling services.

tion catholique relativement aux écoles et aux classes qu'elle gère :

1. La planification, la création et le financement de modules scolaires.
2. L'administration et la fermeture de modules scolaires.
3. La planification, la création, la mise en oeuvre et la poursuite de programmes et de cours à l'intention des élèves inscrits dans les modules scolaires.
4. L'approvisionnement en matériel pédagogique et d'apprentissage.
5. Les écoles pour enfants déficients moyens et les cours de formation professionnelle.
6. La fréquentation scolaire et l'admission de visiteurs dans les écoles.
7. L'admission d'élèves et la conclusion d'ententes avec d'autres conseils et avec l'autre section relativement à l'admission d'élèves.
8. L'émission de débentures.
9. Le placement et l'emprunt de sommes d'argent.
10. L'obtention de revenus aux fins scolaires, y compris, notamment, les subventions et les sommes prélevées par les municipalités.
11. La nomination, l'affectation et la révocation d'enseignants et d'autres employés, à l'égard des questions relevant de la compétence de la section.
12. La nomination du secrétaire de la section.
13. La définition des fonctions des enseignants et des autres employés.
14. Les questions relatives aux réunions et aux dossiers de la section.
15. Les comités consultatifs, et les comités consultatifs pour l'enfance en difficulté.
16. Les services d'orientation.

17. Professional development of employees.
18. Establishing committees for the sector.
19. Determining the terms on which teachers and other employees are to be employed and fixing their salaries.
20. Collective bargaining in respect of teachers and other employees.
21. Providing transportation for pupils.
22. Providing school supplies other than instructional and learning materials.
23. Operating cafeterias for employees and pupils.
24. Providing benefits in respect of employees.
25. Providing administrative support services necessary to carry out a power or duty of the sector.
26. Allowances for members.
27. Providing services of psychologists, psychometrists and language pathologists and other specialized services.
28. Maintenance of a media centre.
29. Any other matter not provided for in this Act.

Matters
requiring
approval by
both sectors

(2) The following matters are within the exclusive jurisdiction of both sectors and require approval by a majority of members of each sector:

1. Appointing and removing the executive director, fixing his or her salary, providing his or her benefits, determining the terms of his or her employment and prescribing his or her duties.

17. Le perfectionnement professionnel des employés.
18. La création de comités pour la section.
19. L'établissement des conditions d'emploi des enseignants et des autres employés, et la fixation de leur salaire.
20. Les négociations collectives à l'égard des enseignants et des autres employés.
21. Le transport des élèves.
22. L'approvisionnement en fournitures scolaires, à l'exclusion du matériel pédagogique et d'apprentissage.
23. L'exploitation de cafétérias à l'usage des employés et des élèves.
24. Les avantages offerts aux employés.
25. La fourniture des services de soutien administratif nécessaires à l'exercice d'un pouvoir ou d'une fonction de la section.
26. Les allocations versées aux membres.
27. La fourniture de services de psychologues, de psychométriciens et d'orthophonistes, et d'autres services spécialisés.
28. Le maintien d'un centre de médias.
29. Toute autre question qui n'est pas prévue par la présente loi.

(2) Les questions suivantes relèvent de la compétence exclusive des deux sections et nécessitent l'approbation de la majorité des membres de chaque section :

Questions
nécessitant
l'approbation
des deux
sections

1. La nomination et la révocation du directeur général, la fixation de son salaire, l'attribution de ses avantages et l'établissement de ses conditions d'emploi ainsi que la définition de ses fonctions.

2. Appointing and removing the auditor for the French-language Board.

Exclusive
jurisdiction
of full board

(3) The following matters are within the exclusive jurisdiction of the full board:

1. Establishing and maintaining the head office for the French-language Board and providing administrative services operated from it.
2. Any matter related to meetings and records of the full board.
3. Establishing committees for the full board.
4. Maintaining buildings and premises and furniture and equipment for the French-language Board.
5. Providing all property and liability insurance for the French-language Board.
6. Appointing the treasurer for the French-language Board.
7. Appointing the secretary for the full board.
8. Appointing and removing employees, other than the executive director, in respect of matters within the full board's jurisdiction.
9. Determining the terms on which employees described in paragraph 8 are to be employed, prescribing their duties, fixing their salaries and providing their benefits.
10. An allowance for the chairman of the full board.
11. Collective bargaining in respect of its employees.
12. Professional development of its employees.

Transfer of
jurisdiction

(4) The public sector and the Roman Catholic sector may by majority resolutions of both sectors transfer the exclusive jurisdiction over part or all of any matter described in paragraphs 19 to 29 of subsection (1) from the sectors to the full board.

2. La nomination et la révocation du vérificateur du Conseil de langue française.

(3) Les questions suivantes relèvent de la compétence exclusive du conseil plénier :

Compétence
exclusive du
conseil
plénier

1. La création et le maintien du siège social du Conseil de langue française et la fourniture des services qui y sont offerts.
2. Les questions relatives aux réunions et aux dossiers du conseil plénier.
3. La création de comités pour le conseil plénier.
4. L'entretien des bâtiments et lieux, de l'ameublement et de l'équipement du Conseil de langue française.
5. La souscription de toutes les assurances responsabilité et de toutes les assurances sur les biens du Conseil de langue française.
6. La nomination du trésorier du Conseil de langue française.
7. La nomination du secrétaire du conseil plénier.
8. La nomination et la révocation des employés, autres que le directeur général, à l'égard des questions relevant de la compétence du conseil plénier.
9. L'établissement des conditions d'emploi des employés visés à la disposition 8, la définition de leurs fonctions, la fixation de leur salaire et l'attribution de leurs avantages.
10. L'allocation versée au président du conseil plénier.
11. Les négociations collectives à l'égard de ses employés.
12. Le perfectionnement professionnel de ses employés.

(4) La section publique et la section catholique peuvent, par voie de résolutions majoritaires des deux sections, transférer des sections au conseil plénier la compétence exclusive à l'égard d'une partie ou de la totalité d'une question décrite aux dispositions 19 à 29 du paragraphe (1).

Transfert de
compétence

Idem

(5) A transfer of jurisdiction under subsection (4) may be made subject to any condition, if both resolutions so provide, but there shall not be a transfer of jurisdiction under subsection (4) unless the resolutions are subject to the same conditions.

Reversion of jurisdiction

(6) Subject to subsection (7), the jurisdiction transferred to the full board is transferred back to the sectors at the end of the term of office of the members who resolved that it be transferred to the full board.

Idem

(7) The public sector or the Roman Catholic sector may by resolution transfer back to the sectors the exclusive jurisdiction over a matter transferred to the full board under subsection (4).

Idem

(8) The transfer of exclusive jurisdiction back to the sectors takes effect at the end of the fiscal year of the French-language Board unless the sectors by majority resolutions of both of them agree that it take effect on an earlier date.

Notice to Minister

(9) The secretary of the full board shall transmit to the Minister notice of a transfer of jurisdiction under subsection (4) or (7) forthwith after the transfer.

Failure to agree

(10) Part XI does not apply to a matter described in subsection (4), (5) or (8).

Agreements

(11) If the subject-matter of an agreement to be made by the French-language Board is within the exclusive jurisdiction of,

(a) the full board, the agreement shall be made by the full board;

(b) the public sector or Roman Catholic sector, the agreement shall be made by the relevant sector.

Religious instruction

(12) Religious instruction is within the exclusive jurisdiction of the public sector in respect of the schools and classes that it governs.

Religious education

(13) Religious education is within the exclusive jurisdiction of the Roman Catholic sector in respect of the schools and classes that it governs.

Acquisition of property

(14) The full board shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the acquisition of real or personal property that is to be used by the full board.

(5) Le transfert de compétence visé au paragraphe (4) peut être assujéti à une condition si les deux résolutions le prévoient, mais il n'y a pas de transfert de compétence en vertu du paragraphe (4) à moins que les résolutions ne soient assujetties aux mêmes conditions. Idem

(6) Sous réserve du paragraphe (7), la compétence transférée au conseil plénier est remise aux sections à la fin du mandat des membres qui ont décidé de la transférer au conseil plénier. Remise de compétence

(7) La section publique ou la section catholique peut, par voie de résolution, remettre aux sections la compétence exclusive à l'égard d'une question transférée au conseil plénier en vertu du paragraphe (4). Idem

(8) La remise de la compétence exclusive aux sections entre en vigueur à la fin de l'exercice du Conseil de langue française, à moins que les sections ne conviennent, par voie de résolutions majoritaires des deux, qu'il entre en vigueur à une date antérieure. Idem

(9) Le secrétaire du conseil plénier avise le ministre d'un transfert de compétence effectué en vertu du paragraphe (4) ou (7) immédiatement après le transfert. Avis au ministre

(10) La partie XI ne s'applique pas aux questions décrites aux paragraphes (4), (5) et (8). Défaut d'entente

(11) Si l'objet d'une entente que doit conclure le Conseil de langue française relève de la compétence exclusive : Ententes

a) du conseil plénier, l'entente est conclue par ce dernier;

b) de la section publique ou de la section catholique, l'entente est conclue par la section intéressée.

(12) L'enseignement religieux relève de la compétence exclusive de la section publique en ce qui concerne les écoles et les classes qu'elle gère. Enseignement religieux

(13) L'enseignement religieux relève de la compétence exclusive de la section catholique en ce qui concerne les écoles et les classes qu'elle gère. Enseignement religieux

(14) Le conseil plénier exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de l'acquisition de biens immeubles ou de biens meubles devant être utilisés par le conseil plénier. Acquisition de biens

Idem

(15) The public sector or the Roman Catholic sector shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the acquisition of real or personal property that is to be used by that sector.

Disposal of
property

(16) The full board shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the sale, lease or disposal of real or personal property that was acquired by the full board or re-allocated to the full board under Part XII.

Idem

(17) The public sector or the Roman Catholic sector shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the sale, lease or disposal of real or personal property that was acquired by that sector or was allocated to that sector and not re-allocated to the full board under Part XII.

Interpretation
of provisions
of R.S.O.
1980, c. 129

5.—(1) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the public sector, the Region shall be deemed to be a public school section and a secondary school district and the French-language instructional units of the public sector shall be deemed to be elementary schools and secondary schools, as the case may be, operated by a divisional board of education.

Idem
R.S.O. 1980,
c. 129

(2) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the Roman Catholic sector, the Region shall be deemed to be an urban separate school zone and the French-language instructional units of the Roman Catholic sector shall be deemed to be urban separate schools operated by a Roman Catholic school board.

Idem

(3) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the full board, the Region shall be deemed to be a public school section and a secondary school district and the full board shall be deemed to be a divisional board of education.

PART III

SCHOOL ATTENDANCE

Application
of R.S.O.
1980, c. 129

6. Sections 17 to 27 and 29 to 31 of the *Education Act* apply with necessary modifications to the French-language Board.

(15) La section publique ou la section catholique exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de l'acquisition de biens immeubles ou de biens meubles devant être utilisés par cette section. Idem

(16) Le conseil plénier exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de la disposition, notamment par vente ou location, de biens immeubles ou de biens meubles acquis par le conseil plénier ou attribués de nouveau au conseil plénier en vertu de la partie XII. Disposition de biens

(17) La section publique ou la section catholique exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de la disposition, notamment par vente ou location, de biens immeubles ou de biens meubles qui ont été acquis par cette section ou attribués à cette section et non attribués de nouveau au conseil plénier en vertu de la partie XII. Idem

5 (1) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section publique, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et les modules scolaires de langue française de la section publique sont réputés des écoles élémentaires et des écoles secondaires, selon le cas, qui relèvent d'un conseil de l'éducation de division scolaire. Interprétation des dispositions du chap. 129 des L.R.O. de 1980

(2) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section catholique, la Région est réputée une zone urbaine d'écoles séparées, et les modules scolaires de langue française de la section catholique sont réputés des écoles séparées urbaines qui relèvent d'un conseil d'écoles catholiques. Idem
L.R.O. 1980, chap. 129

(3) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence du conseil plénier, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et le conseil plénier est réputé un conseil de l'éducation de division scolaire. Idem

PARTIE III

FRÉQUENTATION SCOLAIRE

6 Les articles 17 à 27 et 29 à 31 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application du chap. 129 des L.R.O. de 1980

Resident
pupil qualifi-
cation, public
sector

7.—(1) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the public sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a French-speaking person who is not a public school supporter, a separate school supporter or a supporter of the Roman Catholic sector; or
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the public sector.

Resident
pupil qualifi-
cation,
Roman
Catholic
sector

(2) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the Roman Catholic sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a supporter of that sector; or
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the Roman Catholic sector.

Resident
pupil
qualification

(3) A person who is the child of a French-speaking person is qualified to be a resident pupil in respect of a secondary school operated by the public sector or by the Roman Catholic sector if the person is over eighteen years of age and has resided in the Region for the twelve months immediately before his or her admission to a school operated by that sector or to a school operated by a board to which that sector pays fees on the person's behalf.

Idem

(4) The requirement in subsection (1) or (2) that the person be less than twenty-one years of age does not apply for secondary school purposes.

Resident
pupil

(5) A person who is qualified to be a resident pupil of a sector is a resident pupil if the person enrolls in a school operated by that sector or in a school operated by the other sector or a board to which the sector pays fees on the person's behalf.

7 (1) Quiconque atteint six ans au cours d'une année satisfait, après le 1^{er} septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section publique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas :

Conditions
requises pour
être élève
résident de la
section
publique

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un francophone qui n'est pas contribuable des écoles publiques, des écoles séparées ni de la section catholique;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section publique.

(2) Quiconque atteint six ans au cours d'une année satisfait, après le 1^{er} septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section catholique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas :

Conditions
requises pour
être élève
résident de la
section
catholique

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un contribuable de cette section;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section catholique.

(3) Une personne dont le père ou la mère est francophone satisfait aux conditions requises pour être élève résident en ce qui concerne une école secondaire qui relève de la section publique ou de la section catholique si elle a plus de dix-huit ans et qu'elle a résidé dans la Région pendant les douze mois précédant son admission à une école qui relève de cette section ou à une école qui relève d'un conseil auquel cette section verse des droits de scolarité au nom de la personne.

Conditions
requises pour
être élève
résident d'une
école
secondaire

(4) La nécessité, prévue au paragraphe (1) ou (2), d'avoir moins de vingt et un ans ne s'applique pas aux fins des écoles secondaires.

Idem

(5) La personne qui satisfait aux conditions requises pour être élève résident d'une section est élève résident si elle s'inscrit dans une école qui relève de cette section ou dans une école qui relève de l'autre section ou d'un conseil auquel la section verse des droits de scolarité au nom de cette personne.

Élève
résident

Evidence as to right to attend

(6) It is the responsibility of the parent or guardian to submit evidence that a child has a right to attend an elementary school operated by a sector, including proof of age, if necessary.

Admission if pupil moves into residence not assessed in accordance with school support

8. If a child who would otherwise have the right to attend a school operated by one school system moves with his or her parent or guardian who is a supporter of that school system into a residence that is assessed to the support of another school system, and the latest date upon which the assessment of the residence may be changed to support of the first named school system has passed, upon the filing of a notice of change of support for the following year with the assessment commissioner, the child shall be admitted without the payment of a fee, to a school operated by that school system.

Kindergarten, exceptional pupils
R.S.O. 1980, c. 129

9.—(1) Sections 33 to 36 of the *Education Act* apply with necessary modifications to the French-language Board.

Accessible schools, right to attend

(2) Section 38 of the *Education Act* applies with necessary modifications to a pupil seeking to be admitted to,

- (a) a French-language instructional unit of a nearer school that is not in the Region, if the pupil is a resident pupil of a sector; and
- (b) a nearer school operated by a sector, if the pupil is a resident pupil in respect of a board that is not in the Region and is the child of a French-speaking person.

Admission of adult resident

(3) Subsection 39 (5) of the *Education Act* applies with necessary modifications to the French-language Board.

Other issues of admission

(4) Sections 40 to 48 of the *Education Act* apply with necessary modifications to the French-language Board.

Right to attend secondary school

(5) Section 1360 of the *Education Act* applies with necessary modifications to the French-language Board to permit a person who is the child of a French-speaking person to transfer,

- (a) from one sector to another;
- (b) from the public sector to The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board, if the per-

(6) Il appartient au père, à la mère ou au tuteur de présenter les documents prouvant qu'un enfant a le droit de fréquenter une école élémentaire qui relève d'une section, y compris, le cas échéant, ceux qui attestent son âge.

Preuve du droit de fréquenter une école

8 Si un enfant qui aurait autrement le droit de fréquenter une école relevant d'une organisation scolaire déménage avec son père, sa mère ou son tuteur qui est contribuable de cette organisation scolaire dans une résidence qui fait l'objet d'une cotisation en faveur d'une autre organisation scolaire et que la date ultime à laquelle la cotisation de cette résidence peut être changée en faveur de la première organisation scolaire mentionnée est passée, l'enfant est admis, dès le dépôt auprès du commissaire à l'évaluation d'un avis de changement de statut de contribuable pour l'année suivante, sans l'acquittement de droits de scolarité, à une école qui relève de cette organisation scolaire.

Admission d'un élève qui déménage dans une résidence dont la cotisation ne correspond pas au soutien scolaire

9 (1) Les articles 33 à 36 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Jardin d'enfants, élèves en difficulté
L.R.O. 1980, chap. 129

(2) L'article 38 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'élève qui cherche à être admis :

Droit de fréquenter des écoles

- a) à un module scolaire de langue française d'une école plus proche qui n'est pas située dans la Région, si l'élève est élève résident d'une section;
- b) à une école plus proche relevant d'une section, si l'élève est élève résident à l'égard d'un conseil qui n'est pas situé dans la Région et si son père ou sa mère est francophone.

(3) Le paragraphe 39 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Admission d'un adulte résident

(4) Les articles 40 à 48 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Autres problèmes d'admission

(5) L'article 136o de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française afin de permettre à la personne dont le père ou la mère est francophone de passer :

Droit de fréquenter une école secondaire

- a) d'une section à l'autre;
- b) de la section publique au Conseil des écoles séparées catholiques d'Ottawa ou au Conseil des écoles séparées catholiques de Carleton, si la personne

son resides within the area of jurisdiction of that separate school board;

- (c) from The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate Board to the public sector;
- (d) from the Roman Catholic sector to The Ottawa Board of Education or The Carleton Board of Education, if the person resides within the area of jurisdiction of that board of education;
- (e) from The Ottawa Board of Education or The Carleton Board of Education to the Roman Catholic sector.

Right to
attend school
of sector

10.—(1) A person is entitled to be a pupil in a school operated by the public sector if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by a public board in the Region; and
- (b) is the child of a French-speaking person.

Idem

(2) A person is entitled to be a pupil in a school operated by the Roman Catholic sector if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by a separate school board in the Region; and
- (b) is the child of a French-speaking person.

Right to
attend school
of board

(3) A person is entitled to be a pupil in a school operated by a public board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by the public sector; and
- (b) resides in the area of jurisdiction of that public board.

Idem

(4) A person is entitled to be a pupil in a school operated by a separate school board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by the Roman Catholic sector; and

réside dans le ressort de ce conseil d'écoles séparées;

- c) du Conseil des écoles séparées catholiques d'Ottawa ou du Conseil des écoles séparées catholiques de Carleton à la section publique;
- d) de la section catholique au Conseil de l'éducation d'Ottawa ou au Conseil de l'éducation de Carleton, si la personne réside dans le ressort de ce conseil de l'éducation;
- e) du Conseil de l'éducation d'Ottawa ou du Conseil de l'éducation de Carleton à la section catholique.

10 (1) Une personne a le droit d'être élève d'une école qui relève de la section publique si :

Droit de fréquenter une école d'une section

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève d'un conseil public dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(2) Une personne a le droit d'être élève d'une école qui relève de la section catholique si : Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève d'un conseil d'écoles séparées dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(3) Une personne a le droit d'être élève d'une école qui relève d'un conseil public dans la Région si :

Droit de fréquenter une école d'un conseil

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève de la section publique;
- b) d'autre part, elle réside dans le ressort de ce conseil public.

(4) Une personne a le droit d'être élève d'une école qui relève d'un conseil d'écoles séparées dans la Région si : Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève de la section catholique;

- (b) resides in the area of jurisdiction of that separate school board.

Fee

(5) The board or sector in respect of which the child is qualified to be a resident pupil shall pay to the sector or board whose school the child attends a fee equal to the lesser of,

- (a) the fee set by the board or sector; or
- (b) the fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,
c. 129

Admission of
pupils other
than French-
speaking
pupils

11.—(1) If the parent or guardian of a child under the age of eighteen years is not a French-speaking person and the child would qualify to be a resident pupil of a sector if the child's parent or guardian were a French-speaking person, the parent or guardian may request that the child be admitted as a pupil of that sector.

Idem

(2) A person eighteen years of age or older who is not the child of a French-speaking person and who but for that fact would qualify to be a resident pupil of a sector may request to be admitted as a pupil of that sector.

Idem

(3) A sector, on receipt of a request under this section, may admit the person as a pupil if the admission is approved by a majority vote of an admissions committee appointed by the sector and composed of the principal of the school to which admission is sought, a teacher of that school and a supervisory officer employed by the sector.

Fees

(4) If a person is admitted as a pupil of a sector under this section, the board in which the person is qualified to be a resident pupil shall pay to the sector a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,
c. 129

Agreement
with other
sector

12.—(1) The Roman Catholic sector and the public sector may enter into an agreement to provide instruction of pupils of one sector in a school or schools operated by the other sector.

- b) d'autre part, elle réside dans le ressort de ce conseil d'écoles séparées.

(5) Le conseil ou la section à l'égard duquel ou de laquelle l'enfant satisfait aux conditions requises pour être élève résident paie à la section ou au conseil dont relève l'école que l'enfant fréquente des droits de scolarité équivalant au moins des montants suivants :

Droits de scolarité

- a) les droits de scolarité fixés par le conseil ou la section;
- b) les droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

L.R.O. 1980, chap. 129

11 (1) Si le père, la mère ou le tuteur d'un enfant âgé de moins de dix-huit ans n'est pas francophone et que cet enfant satisfait aux conditions requises pour être élève résident d'une section si son père, sa mère ou son tuteur était francophone, le père, la mère ou le tuteur peut demander que l'enfant soit admis comme élève de cette section.

Admission d'élèves non francophones

(2) La personne âgée de dix-huit ans ou plus dont ni le père ni la mère n'est francophone, et qui, si ce n'était ce fait, satisfait aux conditions requises pour être élève résident d'une section peut demander à être admise comme élève de cette section.

Idem

(3) La section qui reçoit une demande présentée en vertu du présent article peut admettre la personne comme élève, si l'admission est approuvée par un vote majoritaire d'un comité d'admission établi par la section et composé du directeur de l'école à laquelle l'admission est demandée, d'un enseignant de cette école et d'un agent de supervision employé par la section.

Idem

(4) Si une personne est admise comme élève d'une section en vertu du présent article, le conseil à l'égard duquel la personne satisfait aux conditions requises pour être élève résident paie à la section des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de scolarité

L.R.O. 1980, chap. 129

12 (1) La section catholique et la section publique peuvent conclure une entente en vue de dispenser l'enseignement aux élèves d'une section dans une ou plusieurs écoles qui relèvent de l'autre section.

Entente avec l'autre section

Fees

(2) The sector requesting instruction shall pay to the sector providing instruction a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,
c. 129

PART IV

FRENCH-LANGUAGE SCHOOL SUPPORT

Exemption of
supporters
from public
school rates

13.—(1) Every person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns, who in any year becomes a supporter of the public sector or of the Roman Catholic sector, is exempt from the payment of all rates imposed on such land for public school purposes for the following year and every subsequent year while the person continues to be such a supporter with respect to such land.

Who may be
supporters

(2) A person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns may be,

- (a) a supporter of the Roman Catholic sector, if the person is a French-speaking person and a Roman Catholic;
- (b) a supporter of the public sector, if the person is a French-speaking person.

Becoming a
supporter

(3) A person becomes a supporter of the public sector or of the Roman Catholic sector in a year if the person is entitled under subsection (2) to be such a supporter and,

- (a) the person, acting alone or by an agent, before the return of the assessment roll in that year, gives to the assessment commissioner notice in writing that the person desires to be such a supporter;
- (b) in that year the person is shown as being such a supporter on the school support list as prepared or revised by the assessment commissioner under section 15 of the *Assessment Act*; or

R.S.O. 1980,
c. 31

(2) La section qui demande l'enseignement paie à la section qui le dispense des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de
scolarité

L.R.O. 1980,
chap. 129

PARTIE IV

SOUTIEN SCOLAIRE DES ÉCOLES DE LANGUE FRANÇAISE

13 (1) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient, et devient, au cours de l'année, contribuable de la section publique ou de la section catholique, est exempté du versement des cotisations scolaires perçues sur ce terrain aux fins des écoles publiques pour l'année suivante et les années ultérieures tant qu'il est contribuable de cette section en ce qui concerne ce terrain.

Exemption de
cotisations
scolaires aux
fins des écoles
publiques

(2) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient peut être :

Qui peut être
contribuable

- a) contribuable de la section catholique s'il est francophone et catholique;
- b) contribuable de la section publique s'il est francophone.

(3) Une personne devient, au cours d'une année donnée, contribuable de la section publique ou de la section catholique si elle en a le droit en vertu du paragraphe (2) et si elle satisfait à l'une des conditions suivantes :

Comment
on devient
contribuable

- a) elle remet au commissaire à l'évaluation par écrit, avant la remise du rôle d'évaluation au cours de cette année, personnellement ou par l'intermédiaire de son représentant, un avis écrit de son désir d'être contribuable de cette section;
- b) cette année-là, elle figure à titre de contribuable de cette section sur la liste de soutien scolaire dressée ou révisée par le commissaire à l'évaluation en vertu de l'article 15 de la *Loi sur l'évaluation foncière*;

L.R.O. 1980,
chap. 31

- (c) in that year the person is declared to be such a supporter as a result of a final decision rendered in proceedings commenced under the *Assessment Act*.

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c. 31

Penalty for
wilful false
statements in
notice

- (4) Any person who fraudulently gives a notice under this section or wilfully makes any false statement in it does not thereby secure an exemption from the rates and, in addition, is guilty of an offence.

As to rates
imposed
before
French-
language
Board
established

Notice of
withdrawal of
support

- (5) Nothing in this section exempts any person from paying any rate for public school purposes or separate school purposes imposed before this Act comes into force.

14.—(1) A person ceases to be a supporter of the public sector or of the Roman Catholic sector in a year if, on or before the return of the assessment roll in that year, the person gives to the assessment commissioner notice in writing that the person desires to withdraw that support for the following year.

Supporter for
one system
at a time

- (2) A person may be a supporter of only one school system at any given time.

Transitional,
enumeration

15.—(1) This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

Idem

- (2) A person shall be deemed to have been enumerated as a supporter of the public sector if the person,

- (a) is enumerated as owning land in the Region or occupying land in the Region as a tenant;
- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board; and
- (c) is not deemed under subsection (3) to have been enumerated as a supporter of the Roman Catholic sector.

Idem

- (3) A person shall be deemed to have been enumerated as a supporter of the Roman Catholic sector if the person,

- (a) is enumerated as a Roman Catholic who chooses to be a separate school supporter; and

- c) cette année-là, elle est déclarée contribuable de cette section par suite d'une décision définitive rendue dans une instance introduite en vertu de la *Loi sur l'évaluation foncière*.

L.R.O. 1980,
chap. 31

(4) Quiconque donne frauduleusement un avis prévu au présent article ou y fait intentionnellement une fausse déclaration n'obtient pas d'exemption de cotisations scolaires. Il est en outre coupable d'une infraction.

Peine en cas
de fausses
déclarations
intentionnelles
dans l'avis

(5) Aucune disposition du présent article n'exempte une personne du versement, aux fins des écoles publiques ou des écoles séparées, des cotisations scolaires si l'imposition est antérieure à l'entrée en vigueur de la présente loi.

Imposition
avant la créa-
tion du Con-
seil de langue
française

14 (1) Une personne cesse d'être contribuable de la section publique ou de la section catholique au cours d'une année si elle remet au commissaire à l'évaluation, au plus tard au moment de la remise du rôle d'évaluation au cours de cette année, un avis écrit de son désir de retirer son soutien pour l'année suivante.

Avis de retrait
de
soutien

(2) Une personne peut être contribuable d'une seule organisation scolaire à la fois.

Contribuable
d'une organi-
sation à la
fois

15 (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*.

Disposition
transitoire,
recensement

(2) Une personne est réputée avoir été recensée comme contribuable de la section publique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme propriétaire d'un terrain dans la Région ou comme locataire et occupant d'un terrain dans la Région;
- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme contribuable de la section catholique.

(3) Une personne est réputée avoir été recensée comme contribuable de la section catholique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme catholique qui choisit d'être contribuable des écoles séparées;

- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board.

Application
of certain
sections
R.S.O. 1980,
c. 129

16. Sections 123, 124 and 125 of the *Education Act*, which apply in respect of separate school support, also apply in the Region, with necessary modifications, in respect of support of the public sector and the Roman Catholic sector.

Definitions

17.—(1) In this section,

“organisation
publique”

“public system” means a public board in the Region and includes the public sector;

“organisation
catholique”

“Roman Catholic system” means a separate school board in the Region and includes the Roman Catholic sector.

If multiple
owners or
tenants

(2) The following rules apply in determining the school support of two or more persons who together own land in the Region or occupy land in the Region as tenants:

1. If they all choose to support the same school system, they shall be supporters of that system.
2. If they all choose to support a Roman Catholic system, they shall be supporters of a Roman Catholic system.
3. If at least one of them chooses to support a public system, they shall be supporters of a public system.
4. If they all choose to support the French-language Board they shall be supporters of the French-language Board.
5. If at least one of them chooses to support an English-language board they shall be supporters of the English-language board.

Idem

(3) A person may not choose to support a school system under subsection (2) unless he or she is entitled to support that school system.

Definitions

18.—(1) In this section,

- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil.

16 Les articles 123, 124 et 125 de la *Loi sur l'éducation*, qui s'appliquent à l'égard du soutien des écoles séparées, s'appliquent également, avec les adaptations nécessaires, dans la Région à l'égard du soutien de la section publique et de la section catholique.

Champ d'application de certains articles
L.R.O. 1980, chap. 129

17 (1) Les définitions qui suivent s'appliquent au présent article.

Définitions

«organisation catholique» S'entend d'un conseil d'écoles séparées dans la Région, y compris la section catholique.

«Roman Catholic system»

«organisation publique» S'entend d'un conseil public dans la Région, y compris la section publique.

«public system»

(2) Les règles suivantes s'appliquent pour déterminer le soutien scolaire de deux ou plusieurs personnes qui, ensemble, sont propriétaires d'un terrain dans la Région ou locataires et occupants d'un terrain dans la Région :

Plusieurs propriétaires ou locataires

1. Si elles choisissent toutes d'être contribuables de la même organisation scolaire, elles sont contribuables de cette organisation.
2. Si elles choisissent toutes d'être contribuables d'une organisation catholique, elles sont contribuables d'une organisation catholique.
3. Si au moins l'une d'elles choisit d'être contribuable d'une organisation publique, elles sont contribuables d'une organisation publique.
4. Si elles choisissent toutes d'être contribuables du Conseil de langue française, elles sont contribuables du Conseil de langue française.
5. Si au moins l'une d'elles choisit d'être contribuable d'un conseil de langue anglaise, elles sont contribuables du conseil de langue anglaise.

(3) Une personne ne peut pas choisir d'être contribuable d'une organisation scolaire en vertu du paragraphe (2) à moins qu'elle n'ait le droit d'être contribuable de cette organisation scolaire.

Idem

18 (1) Les définitions qui suivent s'appliquent au présent article.

Définitions

"évaluation" "assessment", in respect of a corporation, means the assessment of land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the business or other assessments of the corporation made under the *Assessment Act*;

R.S.O. 1980,
c. 31

"personnes
admissibles" "eligible persons" means,

- (a) persons who are Roman Catholic, in the case of the separate schools,
- (b) French-speaking persons, in the case of the public sector, and
- (c) French-speaking persons who are Roman Catholic, in the case of the Roman Catholic sector.

School
support, right
of
corporation

(2) A corporation by notice to the assessment commissioner may require the whole or any part of its assessment to be entered, rated and assessed for the purposes of separate schools, the public sector, the Roman Catholic sector or any combination of them.

Copy of
notice to
clerk

(3) The assessment commissioner shall thereupon forward a copy of the notice to the clerk of the area municipality in which the land referred to in the notice is situate.

Duty of
assessment
commissioner

(4) Upon receipt of the notice, the assessment commissioner shall enter the corporation on the assessment roll to be next returned with the school support with respect to its assessment for each school system designated in the notice entered separately.

Idem

(5) The assessment commissioner shall separately enter and assess for public school purposes any assessment not designated in the notice.

Duty of clerk

(6) Upon receipt of the notice from the assessment commissioner, the clerk shall enter the corporation in the collector's roll with the school support with respect to the corporation's assessment for each school system designated in the notice entered separately.

Idem

(7) The clerk shall separately enter and show as assessed for public school purposes any assessment not designated in the notice.

How
proportion
settled

(8) The share or portion of a corporation's assessment rated and assessed to a school system other than a public school board shall not bear a greater proportion to the corporation's whole assessment than the amount of stock or

«évaluation» En ce qui concerne une personne morale, s'entend de l'évaluation des biens-fonds dont la personne morale est le propriétaire et l'occupant ou, si elle n'en est pas le propriétaire, dont elle est le locataire, l'occupant ou le possesseur de fait, et des évaluations commerciales ou autres de la personne morale effectuées en vertu de la *Loi sur l'évaluation foncière*.

«assessment»

L.R.O. 1980,
chap. 31

«personnes admissibles» S'entend des personnes suivantes :

«eligible
persons»

- a) les catholiques, dans le cas des écoles séparées;
- b) les francophones, dans le cas de la section publique;
- c) les francophones catholiques, dans le cas de la section catholique.

(2) Une personne morale peut, au moyen d'un avis envoyé au commissaire à l'évaluation, demander que la totalité ou une partie de son évaluation soit inscrite, imposée et évaluée aux fins des écoles séparées, de la section publique, de la section catholique ou d'une combinaison quelconque de celles-ci.

Droit des personnes morales en matière de soutien scolaire

(3) Le commissaire à l'évaluation envoie alors une copie de l'avis au secrétaire de la municipalité de secteur où se trouvent les biens-fonds visés dans l'avis.

Copie de l'avis au secrétaire

(4) Dès qu'il reçoit l'avis, le commissaire à l'évaluation inscrit la personne morale au prochain rôle d'évaluation qui doit être rendu, en indiquant séparément le soutien scolaire relatif à son évaluation à accorder à chaque organisation scolaire désignée dans l'avis.

Obligation du commissaire à l'évaluation

(5) Le commissaire à l'évaluation, aux fins des écoles publiques, inscrit et évalue séparément les évaluations qui ne sont pas désignées dans l'avis.

Idem

(6) Dès qu'il reçoit l'avis du commissaire à l'évaluation, le secrétaire inscrit la personne morale au rôle du percepteur, en indiquant séparément le soutien scolaire relatif à l'évaluation de la personne morale à accorder à chaque organisation scolaire désignée dans l'avis.

Obligation du secrétaire

(7) Le secrétaire inscrit et indique séparément comme étant évaluées aux fins des écoles publiques les évaluations qui ne sont pas désignées dans l'avis.

Idem

(8) La part ou la partie de l'évaluation d'une personne morale imposée et évaluée aux fins d'une organisation scolaire autre qu'un conseil d'écoles publiques ne doit pas représenter une fraction de l'évaluation totale de la personne morale qui est supérieure au rapport qui existe entre le montant des

Rapport

shares held by eligible persons bears to the whole amount of the stock or shares.

Notices:
effect, filing
and search
R.S.O. 1980,
c. 129

(9) Subsections 126 (6), (7) and (8) of the *Education Act* apply with necessary modifications to the French-language Board and the English-language boards.

Secondary
school
purposes

(10) This section applies in the same manner for secondary school purposes as for elementary school purposes.

PART V

ELECTORS FOR THE FRENCH-LANGUAGE BOARD

Electors for
public sector
R.S.O. 1980,
c. 308

19. A French-speaking person who is qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the public sector if the person,

- (a) is a supporter of the public sector;
- (b) is the spouse of a supporter of the public sector;
- (c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the public sector; or
- (d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), is enumerated as an elector for the public sector.

Electors for
Roman
Catholic
sector

20. A French-speaking person who is a Roman Catholic and qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the Roman Catholic sector if the person,

- (a) is a supporter of the Roman Catholic sector;
- (b) is the spouse of a supporter of the Roman Catholic sector;

actions détenues par des personnes admissibles et le montant total des actions.

(9) Les paragraphes 126 (6), (7) et (8) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française et aux conseils de langue anglaise.

Avis : validité, classement et recherche
L.R.O. 1980, chap. 129

(10) Le présent article s'applique de la même façon aux fins des écoles secondaires qu'à celles des écoles élémentaires.

Fins des écoles secondaires

PARTIE V

ÉLECTEURS DU CONSEIL DE LANGUE FRANÇAISE

19 Un francophone qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section publique si, selon le cas :

Électeurs de la section publique
L.R.O. 1980, chap. 308

- a) il est contribuable de la section publique;
- b) il est le conjoint d'un contribuable de la section publique;
- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section publique;
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il est recensé comme électeur de la section publique.

20 Un francophone qui est catholique et qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section catholique si, selon le cas :

Électeurs de la section catholique

- a) il est contribuable de la section catholique;
- b) il est le conjoint d'un contribuable de la section catholique;

R.S.O. 1980,
c. 308

- (c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the Roman Catholic sector; or
- (d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), is enumerated as an elector for the Roman Catholic sector.

Prohibition

21. No person is entitled to vote in a regular election in an area municipality both for members of a sector and for members of another sector or a board under the *Education Act*.

R.S.O. 1980,
c. 129

Transitional,
enumeration

22.—(1) This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,
c. 31

Idem

(2) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the public sector if the person,

- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is not deemed under subsection (3) to have been enumerated as an elector for the Roman Catholic sector.

Idem

(3) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the Roman Catholic sector if the person,

- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is enumerated as a Roman Catholic who chooses to be a separate school elector.

- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section catholique;
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il est recensé comme électeur de la section catholique.

L.R.O. 1980,
chap. 308

21 Dans une élection ordinaire qui se déroule dans une municipalité de secteur, nul n'a le droit de voter à la fois pour les membres d'une section et pour les membres d'une autre section ou d'un conseil aux termes de la *Loi sur l'éducation*.

Interdiction

L.R.O. 1980,
chap. 129

22 (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*.

Disposition
transitoire,
recensement
L.R.O. 1980,
chap. 31

(2) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section publique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*;
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme électeur de la section catholique.

(3) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section catholique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*;
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle est recensée comme catholique qui choisit d'être électeur des écoles séparées.

PART VI

DUTIES AND POWERS OF FRENCH-LANGUAGE BOARD

Duties and powers under R.S.O. 1980, c. 129

23.—(1) Section 149, except paragraphs 1 and 2, and section 150 of the *Education Act* apply with necessary modifications to the French-language Board.

Application of sections in Part VI of R.S.O. 1980, c. 129

(2) Sections 151 (scholarships), 152 and 153 (vocational courses), 154 to 158 (benefits), 159 to 165a (agreements), 166 (transportation), 167 (allowances), 169 to 172 (property) and 173 (out-of-classroom programs) of the *Education Act* apply with necessary modifications to the French-language Board.

Disposal of buildings

(3) A sector shall not sell, lease or otherwise dispose of a building or part thereof other than to the other sector unless, in addition to any other approval that may be required, the sector has obtained the approval of the Minister.

Appointment of treasurer

24.—(1) There shall be one treasurer for the French-language Board.

Take proper security

(2) The full board shall take proper security from the treasurer.

Powers and duties of treasurer R.S.O. 1980, c. 129

(3) The provisions of the *Education Act* concerning the powers and duties of a treasurer of a board apply with necessary modifications to the treasurer in respect of the full board, the Roman Catholic sector and the public sector as if they all were boards.

Secretary for full board

25.—(1) The full board shall appoint a secretary for the matters within its jurisdiction.

Secretaries for sectors

(2) The Roman Catholic sector shall appoint a secretary for matters within its jurisdiction and the public sector shall appoint a secretary for matters within its jurisdiction.

Powers and duties of secretary

(3) The provisions of the *Education Act* concerning the powers and duties of a secretary of a board apply with necessary modifications to the secretary of the full board and the secretaries of each sector as if the full board and each of the sectors were boards.

Application of certain sections of R.S.O. 1980, c. 129

(4) Sections 183 (access to meetings and records), 184 (board meetings), 186 (arbitrators), 187 to 193 (offences and penalties) and 194 (validity of elections) of the *Education Act* apply with necessary modifications to the French-language Board.

PARTIE VI

FONCTIONS ET POUVOIRS DU CONSEIL DE LANGUE
FRANÇAISE

23 (1) L'article 149, à l'exclusion des dispositions 1 et 2, et l'article 150 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Fonctions et pouvoirs en vertu du chap. 129 des L.R.O. de 1980

(2) Les articles 151 (bourses d'études), 152 et 153 (cours de formation professionnelle), 154 à 158 (avantages), 159 à 165a (ententes), 166 (transport), 167 (allocations), 169 à 172 (biens) et 173 (programmes périscolaires) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Champ d'application de certains articles de la partie VI du chap. 129 des L.R.O. de 1980

(3) Une section ne doit pas disposer, notamment par vente ou location, d'un bâtiment ou d'une partie d'un bâtiment si ce n'est en faveur de l'autre section, à moins que la section ait obtenu, en plus de toute autre approbation requise, l'approbation du ministre.

Disposition des bâtiments

24 (1) Le Conseil de langue française a un seul trésorier.

Nomination d'un trésorier

(2) Le conseil plénier obtient une sûreté suffisante du trésorier.

Obtention d'une sûreté suffisante

(3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du trésorier d'un conseil s'appliquent, avec les adaptations nécessaires, au trésorier relativement au conseil plénier, à la section catholique et à la section publique comme s'ils étaient tous des conseils.

Pouvoirs et fonctions du trésorier
L.R.O. 1980, chap. 129

25 (1) Le conseil plénier nomme un secrétaire pour les questions qui relèvent de sa compétence.

Secrétaire du conseil plénier

(2) La section catholique nomme un secrétaire pour les questions qui relèvent de sa compétence et la section publique nomme un secrétaire pour les questions qui relèvent de la sienne.

Secrétaires des sections

(3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du secrétaire d'un conseil s'appliquent, avec les adaptations nécessaires, au secrétaire du conseil plénier et au secrétaire de chacune des sections comme si le conseil plénier et chacune des sections étaient des conseils.

Pouvoirs et fonctions du secrétaire

(4) Les articles 183 (réunions publiques et accès aux archives), 184 (réunions du conseil), 186 (arbitres), 187 à 193 (infractions et amendes) et 194 (validité des élections) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Champ d'application de certains articles du chap. 129 des L.R.O. de 1980

Declaration
and oath
R.S.O. 1980,
c. 129

(5) Section 185 of the *Education Act* applies with necessary modifications to the public sector and the Roman Catholic sector as if they both were boards.

Roman
Catholic
sector,
secondary
education

26. Subject to this Act, the Roman Catholic sector has all the powers and shall perform all the duties that the *Education Act* confers or imposes on a secondary school board.

English as a
subject of
instruction

27.—(1) English shall be a subject of instruction in grades 5, 6, 7 and 8 in every school or class operated by the French-language Board.

Idem

(2) English may be a subject of instruction in any grade other than grades 5, 6, 7 and 8 in a school or class operated by the French-language Board.

PART VII

BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS, VACANCIES

Employees
disqualified

28. An employee of the French-language Board is not eligible to be elected a member of the public sector or the Roman Catholic sector or entitled to sit or vote on either of them.

Qualifications
of members
of sectors

29.—(1) A person is qualified to be elected as a member of the Roman Catholic sector or of the public sector if the person is an elector for that sector and resides in the Region.

Idem

(2) A person who is an elector for a sector in respect of an area for which one or more members of the sector are to be elected is qualified to be elected as a member of that sector for any area in the Region if the person is otherwise qualified under this section.

Members
eligible for
re-election

(3) A member of a sector is eligible for re-election if otherwise qualified.

Dis-
qualification
R.S.O. 1980,
c. 129

(4) Subsection 196 (3) of the *Education Act* applies with necessary modifications to the French-language Board.

Qualification
to act as
member

(5) A person is qualified to act as a member of a sector during the term for which he or she was elected so long as the person continues to hold the qualifications required for election as a member of the sector and does not become disqualified.

(5) L'article 185 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils.

Déclaration
et serment
L.R.O. 1980,
chap. 129

26 Sous réserve de la présente loi, la section catholique possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil d'écoles secondaires.

Section
catholique,
enseignement
secondaire

27 (1) Dans toutes les écoles ou les classes qui relèvent du Conseil de langue française, l'anglais est une matière d'enseignement en 5^e, 6^e, 7^e et 8^e années.

Anglais en
tant que
matière d'en-
seignement

(2) Dans une école ou une classe qui relève du Conseil de langue française, l'anglais peut être une matière d'enseignement dans les années autres que les 5^e, 6^e, 7^e et 8^e années.

Idem

PARTIE VII

MEMBRES DU CONSEIL—ÉLIGIBILITÉ, DÉMISSIONS ET VACANCES

28 Quiconque est employé par le Conseil de langue française ne peut pas être membre de la section publique ou de la section catholique. Il ne peut pas siéger au sein de l'une ou l'autre des sections, ni y voter.

Employés
inéligibles

29 (1) Une personne est éligible comme membre de la section catholique ou de la section publique si elle est électeur de cette section et qu'elle réside dans la Région.

Conditions
d'éligibilité
des membres
des sections

(2) Quiconque est électeur d'une section en ce qui concerne un secteur pour lequel un ou plusieurs membres d'une section doivent être élus est éligible comme membre de cette section dans un secteur quelconque de la Région s'il satisfait aux autres conditions prévues par le présent article.

Idem

(3) Un membre d'une section est rééligible s'il satisfait aux autres conditions d'éligibilité.

Membres réé-
ligibles

(4) Le paragraphe 196 (3) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Inéligibilité
L.R.O. 1980,
chap. 129

(5) Une personne peut agir à titre de membre d'une section pour la durée de son mandat tant qu'elle satisfait aux conditions d'éligibilité à titre de membre de la section et qu'elle n'est pas frappée d'incapacité.

Conditions
d'éligibilité
pour agir à
titre de
membre

Idem

(6) A person is qualified to act as a member of the full board if the person is qualified to act as a member of the sector to which the person is elected.

Person not to be candidate for more than one seat

(7) Subsection 196 (5) of the *Education Act* applies with necessary modifications to the French-language Board.

Members remaining in office, resignations

30.—(1) If the office of a member of a sector becomes vacant and the remaining members constitute a majority of the members elected to it, the remaining members shall, at the first regular meeting of the sector after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the sector.

Idem

(2) If the office of a member of a sector becomes vacant and the remaining members do not constitute a majority of the members elected to the sector, a new election shall be held to fill the vacancy or vacancies.

Notice

(3) The secretary of the sector shall send a notice to the clerk of the relevant area municipality if an election is required under subsection (2).

Term of office

(4) A member of a sector appointed or elected under this section shall hold office for the remainder of the term of office of the membership of the sector.

If election held to fill vacancy

31.—(1) Despite subsection 30 (1), if a vacancy occurs in a sector on or before the 31st day of March of an election year, the sector may, by resolution, require that an election be held to fill the vacancy.

Idem

(2) If a sector requires an election to be held, the secretary of the sector shall forthwith send to the clerk of the appropriate area municipality a certified copy of the resolution.

Idem
R.S.O. 1980,
c. 308

(3) The provisions of the *Municipal Elections Act* that pertain to an election to fill a vacancy apply to an election under this section.

Vacancy near time of regular election
R.S.O. 1980,
c. 129

32. Section 202 of the *Education Act* applies with necessary modifications to the French-language Board.

Seat vacated by conviction

33. Section 206 of the *Education Act* applies with necessary modifications to the French-language Board.

(6) Une personne peut agir à titre de membre du conseil plénier si elle peut agir à titre de membre de la section dans laquelle elle est élue. Idem

(7) Le paragraphe 196 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Interdiction de se porter candidat à plusieurs postes

30 (1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, lors de la première réunion ordinaire de la section tenue après que le poste est devenu vacant, une personne qui est éligible comme membre de la section. Membres qui demeurent en fonction, démissions

(2) Si le poste d'un membre d'une section devient vacant et que le reste des membres ne constituent pas la majorité des membres élus, une nouvelle élection a lieu pour combler le ou les postes vacants. Idem

(3) Le secrétaire de la section envoie un avis au secrétaire de la municipalité de secteur intéressée si une élection est nécessaire aux termes du paragraphe (2). Avis

(4) Le membre d'une section nommé ou élu en vertu du présent article demeure en fonction jusqu'à l'expiration du mandat des membres de la section. Mandat

31 (1) Malgré le paragraphe 30 (1), si une vacance survient au sein d'une section au plus tard le 31 mars d'une année d'élection, la section peut, par voie de résolution, exiger la tenue d'une élection pour combler le poste vacant. Élection en vue de combler un poste vacant

(2) Si une section exige la tenue d'une élection, le secrétaire de la section envoie sans délai au secrétaire de la municipalité de secteur intéressée une copie certifiée conforme de la résolution. Idem

(3) Les dispositions de la *Loi sur les élections municipales* qui concernent les élections tenues pour combler les postes vacants s'appliquent à une élection tenue en vertu du présent article. Idem
L.R.O. 1980, chap. 308

32 L'article 202 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Vacance peu avant ou peu après une élection ordinaire
L.R.O. 1980, chap. 129

33 L'article 206 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Vacance d'un poste à la suite d'une condamnation

Elections

34. The election of members of a sector shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

PART VIII

COMPOSITION OF FRENCH-LANGUAGE BOARD

Application
of trustee
representation
provisions
R.S.O. 1980,
c. 129

35.—(1) Subject to subsections (2), (3) and (4), Part VII-A of the *Education Act* applies with necessary modifications to the French-language Board as if,

- (a) the French-language Board were a divisional board that is required to establish an English-language section and that is exercising jurisdiction in an area where there is no coterminous Roman Catholic separate school board that is a Roman Catholic school board; and
- (b) a supporter or elector of the public sector were a public school supporter or public school elector, as the case may be, and a supporter or elector of the Roman Catholic sector were a separate school supporter or separate school elector, as the case may be.

Interpretation

(2) For purposes of applying rule 6 of subsection 206a (6), subsections 206a (13), (14), (17) and (21) and section 206d of the *Education Act*, a reference in that rule, those subsections and that section to a board shall be deemed to be a reference to a sector.

Idem

(3) For purposes of applying rule 11 of subsection 206a (8) of the *Education Act*, a reference in that rule to the number three shall be deemed to be a reference to the number eight and for the purposes of applying rule 13 of subsection 206a (8) of the *Education Act*, a reference in that rule to the number one shall be deemed to be a reference to the number eight.

Idem

(4) For purposes of applying the provisions of the regulation made under clauses 10 (10) (a) and (b) of the *Education Act*, a reference in those provisions to the director of education of a board and to the secretary of the board shall be deemed to be a reference to the director of education and the secretary of the public sector in respect of a determination or distribution for the public sector and to the director of education and the secretary of the Roman Catholic sector in respect of a determination or distribution for the Roman Catholic sector.

34 L'élection des membres d'une section est tenue par les mêmes fonctionnaires et de la même façon que les élections des membres du conseil d'une municipalité. Élections

PARTIE VIII

COMPOSITION DU CONSEIL DE LANGUE FRANÇAISE

35 (1) Sous réserve des paragraphes (2), (3) et (4), la partie VII-A de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française comme si :

Application
des dispositions
relatives
à la représentation
des
conseillers
scolaires

L.R.O. 1980,
chap. 129

- a) d'une part, le Conseil de langue française était un conseil de division scolaire qui est tenu d'établir une section de langue anglaise et qui exerce sa compétence dans un secteur où il n'y a pas de conseil d'écoles séparées catholiques coïncident qui soit un conseil d'écoles catholiques;
- b) d'autre part, un contribuable ou un électeur de la section publique était un contribuable des écoles publiques ou un électeur des écoles publiques, selon le cas, et un contribuable ou un électeur de la section catholique était un contribuable des écoles séparées ou un électeur des écoles séparées, selon le cas.

(2) Pour l'application de la règle 6 du paragraphe 206a (6), des paragraphes 206a (13), (14), (17) et (21), et de l'article 206d de la *Loi sur l'éducation*, une mention d'un conseil, dans cette règle, ces paragraphes et cet article, est réputée une mention d'un secteur.

Interprétation

(3) Pour l'application de la règle 11 du paragraphe 206a (8) de la *Loi sur l'éducation*, une mention du nombre trois, dans cette règle, est réputée une mention du nombre huit, et pour l'application de la règle 13 du paragraphe 206a (8) de la *Loi sur l'éducation*, une mention du nombre un, dans cette règle, est réputée une mention du nombre huit.

Idem

(4) Pour l'application des dispositions du règlement pris en application des alinéas 10 (10) a) et b) de la *Loi sur l'éducation*, une mention du directeur de l'éducation d'un conseil et du secrétaire du conseil, dans ces dispositions, est réputée une mention du directeur de l'éducation et du secrétaire de la section publique à l'égard d'une décision ou d'une répartition pour la section publique, et une mention du directeur de l'éducation et du secrétaire de la section catholique à l'égard d'une décision ou d'une répartition pour la section catholique.

Idem

36 (1) Dans le présent article, «Comité de planification» s'entend du Comité de planification de l'enseignement en

Définition
«Planning
Committee»

Definition
"Comité de
planification"

36.—(1) In this section, "Planning Committee" means the Ottawa-Carleton French-Language Education Planning Committee established by the Minister and constituted by Order in Council 229/88.

Transitional

(2) For the regular election to be held in 1988 and for filling vacancies before the 1st day of December, 1991, if the number of members representing a sector for an area municipality is two or more, the Minister may by order divide the municipality into two or more electoral areas and the electoral areas shall be deemed to be electoral areas established prior to the 2nd day of February, 1988, by the council of the municipality at the request of the sector.

Idem

(3) The Minister, on the recommendation of the Planning Committee, may, by order, increase or decrease the number of members determined to be elected for a sector under rules 1 to 10 of subsection 206a (8) of the *Education Act* by one or two members for the purposes of the regular election to be held in 1988 under the *Municipal Elections Act*.

R.S.O. 1980,
c. 129

R.S.O. 1980,
c. 308

Idem

(4) For purposes of the regular election to be held in 1988 under the *Municipal Elections Act*, the Minister may, by order, exercise the same power as a sector could have exercised under subsections 206a (13) and (14) of the *Education Act* if the sector had been in existence on the day this Act comes into force, and an order of the Minister under this section shall be deemed to be a resolution of the sector to which it applies passed under subsection 206a (13) or (14) of the *Education Act*, as the case may be.

Idem

(5) For the regular election to be held in 1988, if a calculation or a distribution or both are not made or an application is made under section 206c of the *Education Act* and the judge does not deal with it within the time required by subsection 206c (3) of the *Education Act*, the Minister shall make the calculation or distribution or both, as the case may be.

Idem

(6) Despite subsection 35 (4), for purposes of the regular election to be held in 1988 and the application of the provisions of the regulation made under clauses 10 (10) (a) and (b) of the *Education Act*, a reference in those provisions to the director of education of a board and to the secretary of the board shall be deemed to be a reference to the chairmen of the French-language education councils of The Ottawa Board of Education and The Carleton Board of Education in respect of a determination or distribution for the public sector and to the chairmen of the French-language education councils of The Ottawa Roman Catholic Separate School Board and The Carleton Roman Catholic Separate School Board in respect of a determination or distribution for the Roman Catholic sector.

langue française d'Ottawa-Carleton créé par le ministre et constitué par le décret 229/88.

(2) Aux fins de l'élection ordinaire qui doit se tenir en 1988 et pour combler des postes vacants avant le 1^{er} décembre 1991, si le nombre de membres représentant une section pour une municipalité de secteur est de deux ou plus, le ministre peut, par voie d'arrêté, diviser la municipalité en deux secteurs électoraux ou plus. Les secteurs électoraux sont réputés des secteurs électoraux établis avant le 2 février 1988 par le conseil de la municipalité à la demande de la section.

Disposition
transitoire

(3) À la recommandation du Comité de planification, le ministre peut, par voie d'arrêté, augmenter ou diminuer d'un ou de deux le nombre de membres devant être élus pour une section aux termes des règles 1 à 10 du paragraphe 206a (8) de la *Loi sur l'éducation* aux fins de l'élection ordinaire qui doit se tenir en 1988 aux termes de la *Loi sur les élections municipales*.

Idem

L.R.O. 1980,
chap. 129
L.R.O. 1980,
chap. 308

(4) Aux fins de l'élection ordinaire qui doit se tenir en 1988 aux termes de la *Loi sur les élections municipales*, le ministre peut, par voie d'arrêté, exercer le même pouvoir qu'aurait pu exercer une section en vertu des paragraphes 206a (13) et (14) de la *Loi sur l'éducation* si cette section avait existé le jour de l'entrée en vigueur de la présente loi. Un arrêté que prend le ministre en vertu du présent article est réputé une résolution de la section à laquelle il s'applique, adoptée aux termes du paragraphe 206a (13) ou (14) de la *Loi sur l'éducation*, selon le cas.

Idem

(5) Aux fins de l'élection ordinaire qui doit se tenir en 1988, si un calcul ou une répartition, ou les deux, ne sont pas faits, ou qu'une requête est présentée, en vertu de l'article 206c de la *Loi sur l'éducation*, à un juge qui ne donne pas suite à celle-ci dans le délai imparti au paragraphe 206c (3) de la *Loi sur l'éducation*, le ministre fait le calcul ou la répartition, ou les deux, selon le cas.

Idem

(6) Malgré le paragraphe 35 (4), aux fins de l'élection ordinaire qui doit se tenir en 1988 et pour l'application des dispositions du règlement pris en application des alinéas 10 (10) a) et b) de la *Loi sur l'éducation*, une mention du directeur de l'éducation d'un conseil et du secrétaire du conseil, dans ces dispositions, est réputée une mention des présidents des conseils de l'enseignement en langue française du Conseil de l'éducation d'Ottawa et du Conseil de l'éducation de Carleton à l'égard d'une décision ou d'une répartition pour la section publique, et une mention des présidents des conseils de l'enseignement en langue française du Conseil des écoles séparées catholiques d'Ottawa et du Conseil des écoles séparées catholiques de Carleton à l'égard d'une décision ou d'une répartition pour la section catholique.

Idem

Transition
1988, c. 27

(7) Subsection 41 (1) of the *Education Statute Law Amendment Act, 1988* applies with necessary modifications in respect of the French-language Board.

PART IX

FINANCE

Appointment
and dismissal
of auditor

37.—(1) There shall be one auditor for the French-language Board and the auditor shall hold office during good behaviour and be removable for cause.

Qualifications
R.S.O. 1980,
c. 303

(2) The auditor shall be a person licensed as a municipal auditor under the *Municipal Affairs Act*.

Powers and
duties of
auditor
R.S.O. 1980,
c. 129

(3) Subsections 207 (2) to (6) of the *Education Act* apply with necessary modifications to the auditor.

Filing of
financial
statements

(4) The treasurer in every year shall prepare the financial statements of the public sector and the Roman Catholic sector and, upon receiving the auditor's report on them, shall forthwith submit two copies of the financial statements together with a copy of the auditor's report to the Ministry.

Idem

(5) A financial statement for a sector shall include for each classification of expenditure the expenses of the full board allocated to the sector.

Publication
of financial
statements

(6) The treasurer of the French-language Board in every year shall, within one month after receiving the auditor's report on the financial statements of the sectors for the preceding year, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements for that ratepayer's sector for the preceding year in such form as the Minister may require, together with a copy of the report of the auditor.

Idem

(7) If in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy of the report under subsection (6), cause to be included in such notice the copy and the report.

Debentures

38.—(1) Section 208 of the *Education Act* applies with necessary modifications to the public sector as if it were a divisional board.

(7) Le paragraphe 41 (1) de la *Loi de 1988 modifiant des lois concernant l'éducation* s'applique, avec les adaptations nécessaires, à l'égard du Conseil de langue française.

Disposition
transitoire
1988, chap. 27

PARTIE IX

FINANCES

37 (1) Le Conseil de langue française a un vérificateur qui occupe sa charge à titre inamovible, mais qui peut faire l'objet d'une destitution motivée.

Nomination et
déstitution du
vérificateur

(2) Le vérificateur est une personne qui détient un permis pour exercer la charge de vérificateur municipal en vertu de la *Loi sur les affaires municipales*.

Qualités
requises

L.R.O. 1980,
chap. 303

(3) Les paragraphes 207 (2) à (6) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au vérificateur.

Pouvoirs et
fonctions du
vérificateur
L.R.O. 1980,
chap. 129

(4) Chaque année, le trésorier prépare les états financiers de la section publique et de la section catholique. À la réception du rapport du vérificateur à ce sujet, il remet sans délai au ministre deux copies des états financiers ainsi qu'une copie du rapport du vérificateur.

Dépôt des
états finan-
ciers

(5) Les états financiers d'une section comprennent, pour chaque catégorie de dépenses, les frais du conseil plénier affectés à la section.

Idem

(6) Chaque année, dans un délai d'un mois à compter de la réception du rapport du vérificateur sur les états financiers des sections pour l'année précédente, le trésorier du Conseil de langue française fait publier, envoyer par la poste ou remettre à chaque contribuable une copie des états financiers de sa section pour l'année précédente selon la forme que peut exiger le ministre, ainsi qu'une copie du rapport du vérificateur.

Publication
des états
financiers

(7) Si, au cours d'une année, un avis d'impôt est envoyé à chaque contribuable avant le 30 juin, le trésorier peut, au lieu de publier, d'envoyer par la poste ou de remettre une copie du rapport comme le prévoit le paragraphe (6), faire annexer à cet avis la copie et le rapport.

Idem

38 (1) L'article 208 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire.

Débitures

(2) L'article 134 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section catholique.

Droit
d'emprunt

Borrowing
powers

(2) Section 134 of the *Education Act* applies with necessary modifications to the Roman Catholic sector.

Estimates,
full board

39.—(1) The full board in each year shall prepare and adopt estimates of all sums required in its area of jurisdiction during the year for elementary school purposes and for secondary school purposes respectively, and such estimates,

(a) shall set forth its estimated expenditures including debt charges payable on its behalf; and

(b) may provide for expenditures for permanent improvements of premises occupied by it.

Full board's
estimates
allocated to
sectors

(2) The full board shall allocate its estimates to the public sector and to the Roman Catholic sector in the ratio that the average daily enrolment of pupils in the schools of the relevant sector is to the average daily enrolment of pupils in all of the schools of the French-language Board.

Idem

(3) Despite subsection (2), the full board shall allocate its estimates in respect of maintaining a sector's buildings and premises and furniture and equipment to that sector.

Idem

(4) The full board shall allocate its estimates to the sectors separately for elementary and secondary school purposes.

Full board's
estimates
forwarded to
sectors

(5) The full board shall submit its estimates, together with the relevant allocations under subsections (2) and (3), to the sectors on or before the 15th day of February in each year.

Estimates,
sectors
R.S.O. 1980,
c. 129

(6) Subsection 209 (1) of the *Education Act* applies with necessary modifications to the public sector in its area of jurisdiction as if it were a divisional board.

Estimates,
Roman
Catholic
sector

(7) Sections 127 and 136k of the *Education Act* apply with necessary modifications to the Roman Catholic sector.

Levying of
rates

(8) Sections 128 and 130 to 133 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector for elementary and secondary school purposes as if they were both separate school boards.

39 (1) Chaque année, le conseil plénier prépare et adopte les prévisions des sommes nécessaires dans son domaine de compétence au cours de l'année pour les besoins des écoles élémentaires et des écoles secondaires respectivement. Ces prévisions :

Prévisions,
conseil
plénier

- a) précisent les dépenses prévues pour le conseil plénier, y compris le service de la dette pour son compte;
- b) peuvent couvrir les dépenses en vue des améliorations permanentes des lieux que le conseil plénier occupe.

(2) Le conseil plénier affecte ses prévisions à la section publique et à la section catholique dans le rapport qui existe entre l'effectif quotidien moyen dans les écoles de la section intéressée et l'effectif quotidien moyen dans toutes les écoles du Conseil de langue française.

Prévisions du
conseil plénier
affectées aux
sections

(3) Malgré le paragraphe (2), le conseil plénier affecte ses prévisions à l'égard de l'entretien des bâtiments et lieux, de l'ameublement et de l'équipement d'une section à cette section.

Idem

(4) Le conseil plénier affecte ses prévisions aux sections séparément aux fins des écoles élémentaires et secondaires.

Idem

(5) Au plus tard le 15 février de chaque année, le conseil plénier présente aux sections ses prévisions, ainsi que les affectations appropriées visées aux paragraphes (2) et (3).

Prévisions du
conseil plénier
présentées aux
sections

(6) Le paragraphe 209 (1) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique dans son domaine de compétence comme s'il s'agissait d'un conseil de division scolaire.

Prévisions,
sections
L.R.O. 1980
chap. 129

(7) Les articles 127 et 136k de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section catholique.

Prévisions,
section
catholique

(8) Les articles 128 et 130 à 133 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique aux fins des écoles élémentaires et secondaires, comme si les deux sections étaient des conseils d'écoles séparées.

Prélèvements
des impôts

(9) Pour l'application de l'article 130 de la *Loi sur l'éducation*, les sections utilisent les facteurs fixés par le ministre en 1989.

Idem

- Idem (9) For the purposes of section 130 of the *Education Act* the sectors shall use the factors determined by the Minister in 1989.
- Idem (10) A determination of the Minister under subsection (9) is not a regulation within the meaning of the *Regulations Act*.
R.S.O. 1980, c. 446
- Estimates of full board included (11) The estimates of a sector shall include the proportion of the estimates of the full board as allocated to it.
- Statement of amounts to be raised (12) The treasurer on behalf of the public sector shall submit to the council of each area municipality on or before the 1st day of March in each year,
- (a) a statement indicating the amount of its estimates for elementary school purposes and for secondary school purposes to be raised by each council; and
 - (b) a requisition of the amount of the estimates for elementary school purposes and for secondary school purposes required to be raised by the council.
- Provisions concerning estimates
R.S.O. 1980, c. 129 (13) Subsections 209 (2) to (9) of the *Education Act* apply with necessary modifications to the public sector as if it were a divisional board.
- Money not spent because of strike **40.**—(1) Sections 210 and 212 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector.
- Idem (2) A reserve of a sector under subsection 210 (2) of the *Education Act* shall include the proportion of any amount allocated to it in relation to the unpaid salaries and wages of employees of the full board.
- Rates, payments to boards **41.**—(1) Section 215 of the *Education Act* applies with necessary modifications to the French-language Board as if the public sector and the Roman Catholic sector were divisional boards and the Region were a school division.
- First payment (2) The amounts to be used for the calculation under paragraph 1 of subsection 215 (2) of the *Education Act* on the 31st day of March, 1989 shall be determined by the Minister.
- Application (3) A determination of the Minister under subsection (2) is not a regulation within the meaning of the *Regulations Act*.
- Tax notices, accounting for money **42.**—(1) Section 216 of the *Education Act* applies with necessary modifications in respect of the French-language Board.

- (10) La décision du ministre visée au paragraphe (9) n'est pas un règlement au sens de la *Loi sur les règlements*. Idem
L.R.O. 1980, chap. 446
- (11) Les prévisions d'une section indiquent la proportion des prévisions du conseil plénier qui lui ont été affectées. Indication des prévisions du conseil plénier
- (12) Au plus tard le 1^{er} mars de chaque année, le trésorier, au nom de la section publique, présente au conseil de chaque municipalité de secteur : État des montants devant être recueillis
- a) un état indiquant le montant de ses prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que chaque conseil doit recueillir;
 - b) une demande du montant des prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que le conseil doit recueillir.
- (13) Les paragraphes 209 (2) à (9) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire. Dispositions relatives aux prévisions
L.R.O. 1980, chap. 129
- 40** (1) Les articles 210 et 212 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique. Fonds non affectés en raison de grève
- (2) La réserve d'une section visée au paragraphe 210 (2) de la *Loi sur l'éducation* comprend la proportion des sommes qui lui sont affectées relativement aux salaires et à la rémunération impayés des employés du conseil plénier. Idem
- 41** (1) L'article 215 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française comme si la section publique et la section catholique étaient des conseils de division scolaire et que la Région était une division scolaire. Versement des impôts aux conseils
- (2) Le ministre décide des montants à utiliser pour le calcul effectué en vertu de la disposition 1 du paragraphe 215 (2) de la *Loi sur l'éducation* le 31 mars 1989. Premier versement
- (3) La décision du ministre visée au paragraphe (2) ne constitue pas un règlement au sens de la *Loi sur les règlements*. Champ d'application
- 42** (1) L'article 216 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard du Conseil de langue française. Avis d'impôt, reddition de comptes

Current borrowing, when fees payable, reduction of requisition

(2) Sections 217, 218 and 219 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector as if both of them were boards.

Payment of expenses of full board

(3) A sector shall make funds available to provide for payment of the proportion of the expenses of the full board allocated to it.

Borrowing by one sector from another

(4) If money is borrowed from public sector funds for Roman Catholic sector purposes or from Roman Catholic sector funds for public sector purposes, the borrowing sector shall pay interest to the fund from which the money is borrowed at a rate not less than that being earned by the fund at the date of borrowing.

Data furnished, determination of rates
R.S.O. 1980, c. 129

43.—(1) Sections 220 and 221 and subsections 222 (1) and (2) of the *Education Act* apply with necessary modifications in respect of the public sector and the Roman Catholic sector as if both of them were boards.

Idem

(2) Each sector shall determine the rates to be levied for its purposes.

Assessments for school purposes

(3) The clerk of each area municipality shall prepare the following particulars:

1. The commercial assessment for the purposes of the public sector.
2. The residential and farm assessment for the purposes of the public sector.
3. The commercial assessment for the purposes of the Roman Catholic sector.
4. The residential and farm assessment for the purposes of the Roman Catholic sector.

Levying of school rates

44. The council of every area municipality shall levy or cause to be levied on the whole of the assessment for real property and business assessment for the purposes of the public sector and the Roman Catholic sector, according to the last revised assessment roll, the rates determined for each sector.

Share of licence fees for trailers
R.S.O. 1980, c. 129

45. Section 227 of the *Education Act*, which applies in respect of separate school support, also applies in the Region with necessary modifications in respect of support of the public sector and the Roman Catholic sector.

(2) Les articles 217, 218 et 219 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils.

Emprunt
courant, droits
payables,
réduction des
demandes

(3) La section prévoit des fonds pour le paiement de la part des dépenses du conseil plénier qui lui sont affectées.

Paiement des
dépenses du
conseil
plénier

(4) S'il y a emprunt de sommes provenant d'un fonds de la section publique aux fins de la section catholique ou de sommes provenant d'un fonds de la section catholique aux fins de la section publique, la section qui emprunte paie des intérêts au fonds d'où proviennent les sommes empruntées à un taux qui n'est pas inférieur à celui dont bénéficie le fonds à la date de l'emprunt.

Emprunt à
une section
par l'autre

43 (1) Les articles 220 et 221 et les paragraphes 222 (1) et (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard de la section publique et de la section catholique comme si elles étaient toutes les deux des conseils.

Renseignements fournis,
calcul des
impôts
L.R.O. 1980,
chap. 129

(2) Chaque section fixe les impôts qui sont prélevés à ses fins.

Idem

(3) Le secrétaire de chaque municipalité de secteur prépare ce qui suit :

Évaluations
aux fins
scolaires

1. L'évaluation des industries et des commerces aux fins de la section publique.
2. L'évaluation résidentielle et agricole aux fins de la section publique.
3. L'évaluation des industries et des commerces aux fins de la section catholique.
4. L'évaluation résidentielle et agricole aux fins de la section catholique.

44 Le conseil de chaque municipalité de secteur prélève ou fait prélever sur la totalité de l'évaluation foncière et de l'évaluation commerciale aux fins de la section publique et de la section catholique, d'après le dernier rôle d'évaluation révisé, les impôts établis pour chaque section.

Prélèvement
des impôts

45 L'article 227 de la *Loi sur l'éducation*, qui s'applique à l'égard du soutien des écoles séparées, s'applique également, avec les adaptations nécessaires, à l'égard du soutien de la section publique et de la section catholique.

Partie des
droits sur les
roulottes
L.R.O. 1980,
chap. 129

Share of
legislative
grants
R.S.O. 1980,
c. 129

46.—(1) On and after the 1st day of January, 1989, the public sector and the Roman Catholic sector shall each share in the legislative grants under the *Education Act* in the same way as a public board.

Share of
municipal
grants

(2) On and after the 1st day of January, 1989, subsection 135 (2) of the *Education Act* applies with necessary modifications in respect of the schools governed by the public sector and the schools governed by the Roman Catholic sector in the same way that it applies to separate schools.

Special
temporary
grants

(3) The Lieutenant Governor in Council may provide for the payment to the public sector, to the Roman Catholic sector or to both of such special temporary grants as the Lieutenant Governor in Council considers appropriate.

Idem

(4) A grant under subsection (3) shall be paid out of money appropriated by the Legislature for educational purposes.

PART X

TEACHERS AND SUPERVISORY OFFICERS

Teachers

47. Part IX of the *Education Act* applies with necessary modifications to the French-language Board.

Qualifications
of
supervisory
officers

48. Section 249 of the *Education Act* applies with necessary modifications to the French-language Board.

Director of
education for
public sector

49.—(1) The public sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

Director of
education for
Roman
Catholic
sector

(2) The Roman Catholic sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

Duties of
directors of
education

(3) The director of education for a sector shall be responsible to that sector for the development, implementation, operation and supervision of education programs in the French-language instructional units operated by that sector.

Chief
executive
officer of
sectors

(4) Section 253 of the *Education Act* applies with necessary modifications to the directors of education of the sectors.

46 (1) À compter du 1^{er} janvier 1989, la section publique et la section catholique reçoivent chacune une part des subventions générales accordées en vertu de la *Loi sur l'éducation* de la même façon qu'un conseil public.

Part des subventions générales
L.R.O. 1980, chap. 129

(2) À compter du 1^{er} janvier 1989, le paragraphe 135 (2) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard des écoles gérées par la section publique et des écoles gérées par la section catholique de la même façon qu'il s'applique aux écoles séparées.

Part des subventions municipales

(3) Le lieutenant-gouverneur en conseil peut prévoir le paiement à la section publique ou à la section catholique, ou aux deux, des subventions spéciales et temporaires qu'il juge opportunes.

Subventions spéciales et temporaires

(4) Les subventions accordées en vertu du paragraphe (3) sont prélevées sur les sommes affectées par la Législature aux fins de l'éducation.

Idem

PARTIE X

ENSEIGNANTS ET AGENTS DE SUPERVISION

47 La partie IX de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Enseignants

48 L'article 249 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Qualification requise des agents de supervision

49 (1) La section publique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*.

Directeur de l'éducation pour la section publique

(2) La section catholique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*.

Directeur de l'éducation pour la section catholique

(3) Le directeur de l'éducation d'une section est responsable, devant cette section, de l'élaboration, de la mise en oeuvre, de l'application et de la supervision des programmes d'éducation dans les modules scolaires de langue française qui relèvent de cette section.

Fonctions des directeurs de l'éducation

(4) L'article 253 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, aux directeurs de l'éducation des sections.

Chef de service administratif des sections

Executive
director of
full board

50.—(1) The full board shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its executive director.

Idem

(2) The executive director is the chief executive officer of the full board.

Application
of certain
sections of
R.S.O. 1980,
c. 129

(3) Subsections 253 (2) and (3) of the *Education Act* apply with necessary modifications to the executive director of the full board.

Appointment
of
supervisory
officers

51.—(1) Sections 254 and 255 of the *Education Act* apply with necessary modifications to the French-language Board.

Duties of
supervisory
officers

(2) Section 256 of the *Education Act* applies with necessary modifications to the French-language Board.

Sharing
supervisory
officer

(3) Despite subsection 256 (4) of the *Education Act*, the Roman Catholic sector, the public sector and the full board or any two of them may enter into an agreement whereby one of them purchases the services of a supervisory officer of another of them.

Suspension
or dismissal
of
supervisory
officer

(4) Section 257 of the *Education Act* applies with necessary modifications to the French-language Board.

Abolition of
position

(5) The French-language Board shall not abolish the position of a supervisory officer without the approval of the Minister.

PART XI

RESOLUTION OF DISPUTES

Notice
requiring
resolution

52.—(1) If this Act provides that the exercise of a power, duty or right requires approval by both sectors, and the sectors do not agree on how to exercise it, either sector may by notice in writing to the other sector and to the Commission require that the matter be resolved under this Part.

Idem

(2) If this Act provides that a matter is to be resolved by agreement between the French-language Board or one of its sectors and one or more English-language boards and the time specified for making that agreement has elapsed without those parties reaching an agreement, the French-language Board shall by notice in writing to the other party or parties and to the Commission require that the matter be resolved under this Part.

50 (1) Le conseil plénier nomme à titre de directeur général une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*.

Directeur
général du
conseil
plénier

(2) Le directeur général est le chef de service administratif du conseil plénier.

Idem

(3) Les paragraphes 253 (2) et (3) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au directeur général du conseil plénier.

Champ d'ap-
plication de
certaines dis-
positions du
chap. 129 des
L.R.O. de
1980

51 (1) Les articles 254 et 255 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Nomination
des agents de
supervision

(2) L'article 256 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Fonctions des
agents de
supervision

(3) Malgré le paragraphe 256 (4) de la *Loi sur l'éducation*, la section catholique, la section publique et le conseil plénier, ou deux d'entre eux, peuvent conclure une entente selon laquelle l'un d'eux achète les services d'un agent de supervision d'un autre d'entre eux.

Partage d'un
agent de
supervision

(4) L'article 257 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Suspension ou
congédiement
d'un agent de
supervision

(5) Le Conseil de langue française ne doit pas abolir le poste d'un agent de supervision sans l'approbation du ministre.

Abolition de
poste

PARTIE XI

RÉSOLUTION DES CONFLITS

52 (1) Si la présente loi prévoit que l'exercice d'un pouvoir, d'une fonction ou d'un droit nécessite l'approbation des deux sections et que les sections ne s'entendent pas quant à l'exercice de ce pouvoir, de cette fonction ou de ce droit, l'une ou l'autre des sections peut, en remettant un avis écrit à l'autre section et à la Commission, demander que la question soit résolue en vertu de la présente partie.

Avis de
demande de
résolution

(2) Si la présente loi prévoit qu'une question doit être résolue au moyen d'une entente entre le Conseil de langue française ou une de ses sections et un ou plusieurs conseils de langue anglaise, et que le délai imparti pour conclure cette entente a expiré sans que ces parties soient arrivées à une entente, le Conseil de langue française remet un avis écrit à l'autre ou aux autres parties et à la Commission pour demander que la question soit résolue en vertu de la présente partie.

Idem

Panel for
disputes
between
sectors

53.—(1) If a matter is referred to the Commission under subsection 52 (1), the chairman of the Commission shall appoint a panel composed of three of its French-speaking members to act for it in respect of that matter and, in that case, references to the Commission in sections 54 to 58 shall be deemed to be references to the panel.

Idem

(2) The chairman shall appoint one of the members of the panel to chair it.

Commission
to handle
other
disputes
Quorum

(3) The Commission shall act as a whole in respect of a matter referred to it under subsection 52 (2).

(4) If the Commission acts as a whole, a quorum consists of seven members of whom at least three shall be French-speaking and three English-speaking.

Person to
chair
Commission

(5) The chairman or a person designated by the chairman shall chair the Commission when it acts as a whole.

Parties
appoint
mediator

54.—(1) Forthwith after notice is given under section 52, the parties shall appoint a mediator to resolve their dispute and shall notify the Commission of the name and address of the mediator.

Referral to
Commission

(2) If, after fourteen days after a party receives notice under section 52, the parties are unable to agree on the appointment of a mediator, they shall refer the matter to the Commission for appointment of a mediator.

Commission
appoints
mediator

(3) The Commission shall appoint a mediator to resolve the dispute forthwith after the matter is referred to it.

Notice of
appointment

(4) The Commission shall communicate the name and address of a mediator appointed under subsection (3) to the parties.

Remuner-
ation

55.—(1) The parties shall pay the remuneration of the mediator in equal shares.

Idem

(2) A mediator appointed by the parties shall be paid such remuneration as is agreed upon between the mediator and the parties.

Idem

(3) A mediator appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not
eligible as
mediator

(4) The following persons shall not be appointed as a mediator:

53 (1) Si une question est renvoyée à la Commission en vertu du paragraphe 52 (1), le président de la Commission constitue un comité composé de trois des membres francophones de la Commission qui traite de la question au nom de celle-ci, et, dans ce cas, les renvois à la Commission aux articles 54 à 58 sont réputés des renvois au comité.

Comité chargé
de résoudre
les conflits

(2) Le président nomme l'un des membres du comité à la présidence.

Idem

(3) La Commission entière traite des questions qui lui sont renvoyées en vertu du paragraphe 52 (2).

La Commission
traite des
autres conflits

(4) Si la Commission entière traite d'un conflit, le quorum est de sept membres, dont au moins trois francophones et au moins trois anglophones.

Quorum

(5) Lorsque la Commission entière traite d'un conflit, le président ou une personne qu'il désigne assume la présidence de la Commission.

Personne qui
assume la
présidence

54 (1) Immédiatement après la remise de l'avis prévu à l'article 52, les parties nomment un médiateur pour résoudre leur conflit et avisent la Commission du nom et de l'adresse du médiateur.

Nomination
d'un média-
teur par les
parties

(2) Si, au bout de quatorze jours après qu'une partie reçoit l'avis prévu à l'article 52, les parties n'arrivent pas à s'entendre sur la nomination d'un médiateur, elles renvoient la question à la Commission en vue de faire nommer un médiateur.

Renvoi à la
Commission

(3) La Commission nomme un médiateur pour résoudre le conflit immédiatement après avoir été saisie de la question.

Nomination
d'un média-
teur par la
Commission

(4) La Commission communique aux parties le nom et l'adresse du médiateur nommé en vertu du paragraphe (3).

Avis de nomi-
nation

55 (1) Les parties paient à parts égales la rémunération du médiateur.

Rémunération

(2) Le médiateur nommé par les parties reçoit la rémunération dont il convient avec les parties.

Idem

(3) Le médiateur nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil.

Idem

(4) Les personnes suivantes ne doivent pas être nommées médiateur :

Inadmissibilité
aux fonctions
de médiateur

1. A member of the Commission.
2. A member of the French-language Board or of an English-language board.
3. The spouse of a person mentioned in paragraph 1 or 2.

Duties of mediator

56.—(1) The mediator shall inquire into the matter referred for mediation, confer with the parties, endeavour to bring about an agreement and report to the parties and to the Commission concerning whether an agreement has been reached.

Time for mediation

(2) The mediator shall make the report under subsection (1) within twenty-one days after being appointed or within such longer period as the parties may agree or the Commission may approve.

Agreement

(3) If an agreement is reached, it shall be in writing and signed by all of the parties to it.

Arbitration board appointed by parties

57.—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are two parties to the dispute.

Appointment of two members of arbitration board

(2) Each party shall, within ten days of receiving the mediator's report, appoint a person to the arbitration board and notify the Commission of the appointment.

If party fails to appoint a person

(3) If one party fails to appoint a person within ten days of receiving the mediator's report, the other party shall forthwith notify the Commission of the fact, and the Commission shall appoint a person in the place of the first party.

Chair

(4) The two persons appointed to the arbitration board shall jointly appoint a third person to chair it and shall notify the Commission of the appointment.

Idem

(5) If the two persons appointed to the arbitration board do not appoint a third person within ten days of the appointment of the second one of them, the Commission shall appoint a third person to chair the arbitration board.

Remuneration

(6) The parties shall pay the remuneration of the members of the arbitration board in equal shares.

Idem

(7) A member appointed by a party shall be paid such remuneration as is agreed upon between them.

1. Un membre de la Commission.
2. Un membre du Conseil de langue française ou d'un conseil de langue anglaise.
3. Le conjoint d'une personne visée à la disposition 1 ou 2.

56 (1) Le médiateur fait enquête sur la question soumise à sa médiation, s'entretient avec les parties, s'efforce de les faire arriver à une entente et présente aux parties et à la Commission un rapport indiquant si les parties sont arrivées à une entente.

Fonctions du médiateur

(2) Le médiateur présente le rapport prévu au paragraphe (1) dans les vingt et un jours qui suivent sa nomination ou dans un délai plus long dont les parties peuvent convenir ou que la Commission peut approuver.

Délai de médiation

(3) Si les parties arrivent à une entente, cette dernière est mise par écrit et signée par toutes les parties à cette entente.

Entente

57 (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a deux parties au conflit.

Conseil d'arbitrage constitué par les parties

(2) Dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, chaque partie nomme une personne au conseil d'arbitrage et en avise la Commission.

Nomination de deux membres du conseil d'arbitrage

(3) Si une partie ne nomme personne dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, l'autre partie en avise la Commission sans délai et cette dernière nomme une personne à la place de la première partie.

Cas où une partie ne nomme personne

(4) Les deux personnes nommées au conseil d'arbitrage nomment ensemble une troisième personne à la présidence et en avisent la Commission.

Présidence

(5) Si les deux personnes nommées au conseil d'arbitrage ne nomment pas une troisième personne dans les dix jours de la nomination du deuxième d'entre eux, la Commission nomme une troisième personne à la présidence du conseil d'arbitrage.

Idem

(6) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage.

Rémunération

(7) Le membre nommé par une partie reçoit la rémunération dont ils conviennent entre eux.

Idem

- Idem (8) A member appointed by the other members shall be paid such remuneration as is agreed upon between him or her and the parties.
- Idem (9) A member appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.
- Duty of arbitration board (10) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of the appointment of the third person.
- Majority decision (11) The decision of a majority of the members of the arbitration board is the board's decision.
- Decision final (12) The arbitration board's decision is final and binding upon the parties.
- R.S.O. 1980, c. 25 does not apply (13) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.
- Arbitration board appointed by Lieutenant Governor in Council
Commission to notify Lieutenant Governor in Council
Appointment of arbitration board to resolve dispute
Remuneration
Idem
Duty of arbitration board
Majority decision
Decision final
- 58.**—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are more than two parties to the dispute.
- (2) If this section applies to a dispute, the Commission shall notify the Lieutenant Governor in Council of the fact as soon as possible.
- (3) The Lieutenant Governor in Council shall appoint an arbitration board of one or three persons to resolve the dispute.
- (4) The parties shall pay the remuneration of the members of the arbitration board in equal shares.
- (5) The members of the arbitration board shall be paid such remuneration as the Lieutenant Governor in Council may determine.
- (6) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of being appointed.
- (7) If the arbitration board consists of three persons, the decision of a majority of them is the board's decision.
- (8) The arbitration board's decision is final and binding upon the parties.

(8) Le membre nommé par les autres membres reçoit la rémunération dont il convient avec les parties. Idem

(9) Le membre nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem

(10) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent la nomination de la troisième personne. Devoir du conseil d'arbitrage

(11) La décision de la majorité des membres du conseil d'arbitrage est la décision du conseil. Décision majoritaire

(12) La décision du conseil d'arbitrage est définitive et lie les parties. Décision définitive

(13) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article. Non-application du chap. 25 des L.R.O. de 1980

58 (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a plus de deux parties au conflit. Conseil d'arbitrage constitué par le lieutenant-gouverneur en conseil

(2) Si le présent article s'applique à un conflit, la Commission en avise le lieutenant-gouverneur en conseil le plus tôt possible. La Commission avise le lieutenant-gouverneur en conseil

(3) Le lieutenant-gouverneur en conseil constitue un conseil d'arbitrage composé d'une ou de trois personnes pour résoudre le conflit. Constitution d'un conseil d'arbitrage pour résoudre le conflit

(4) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage. Rémunération

(5) Les membres du conseil d'arbitrage reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem

(6) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent sa constitution. Devoir du conseil d'arbitrage

(7) Si le conseil d'arbitrage est composé de trois personnes, la décision de la majorité d'entre eux est la décision du conseil. Décision majoritaire

(8) La décision du conseil d'arbitrage est définitive et lie les parties. Décision définitive

R.S.O. 1980,
c. 25 does
not apply

(9) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.

Enforcement
of decision

(10) A party to a dispute under this section between the French-language Board or one of its sectors and one or more English-language boards may cause a copy of the arbitration board's decision to be filed in the office of the Registrar of the Supreme Court, exclusive of the reasons therefor, and the decision shall be entered in the same way as a judgment of the Supreme Court and is enforceable as such.

Idem

(11) A decision of the arbitration board in respect to a dispute between the public sector and the Roman Catholic sector shall be deemed to be a decision of the French-language Board.

Idem

(12) A party to a dispute under this section between the public sector and the Roman Catholic sector may cause a copy of the arbitration board's decision to be filed in the office of the Registrar of the Supreme Court, exclusive of the reasons therefor, and the decision shall be entered in the same way as a judgment of the Supreme Court and is enforceable as such against any member of either sector.

PART XII

TRANSFER OF BUILDINGS AND ASSETS TO FRENCH-LANGUAGE BOARD

Transfer of
real property

59.—(1) Any real property of an English-language board that on the 31st day of January, 1988 was a school site used by French-language instructional units shall be transferred to the French-language Board on the 1st day of January, 1989.

Idem

(2) If a school site used by French-language instructional units of an English-language board on the 31st day of January, 1988 ceases to be so used on or before the 31st day of December, 1988 and a second school site is so used in its place, the French-language Board may require the second school site to be transferred to it under subsection (1) in the place of the first school site.

Idem

(3) Subject to subsection (2), if a school site was not used by French-language instructional units on the 31st day of January, 1988 but becomes so used on or before the 31st day of December, 1988, the school site shall be transferred to the French-language Board on the 1st day of January, 1989.

Transfer of
personal
property

(4) All of the personal property of an English-language board that was used at any time during the period from the

(9) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article.

Non-application du chap. 25 des L.R.O. de 1980

(10) Une partie à un conflit visé au présent article entre le Conseil de langue française ou une de ses sections, et un ou plusieurs conseils de langue anglaise peuvent faire déposer une copie de la décision du conseil d'arbitrage, à l'exclusion des motifs, au bureau de greffier de la Cour suprême. La décision est inscrite de la même façon qu'un jugement de la Cour suprême et est exécutoire à ce titre.

Exécution de la décision

(11) Une décision du conseil d'arbitrage à l'égard d'un conflit entre la section publique et la section catholique est réputée une décision du Conseil de langue française.

Idem

(12) Une partie à un conflit visé au présent article entre la section publique et la section catholique peut faire déposer une copie de la décision du conseil d'arbitrage, à l'exclusion des motifs, au bureau du greffier de la Cour suprême. La décision est inscrite de la même façon qu'un jugement de la Cour suprême et est exécutoire à ce titre contre tout membre de l'une ou l'autre des sections.

Idem

PARTIE XII

TRANSFERT DE BÂTIMENTS ET DE BIENS AU CONSEIL DE LANGUE FRANÇAISE

59 (1) Les biens immeubles d'un conseil de langue anglaise qui, le 31 janvier 1988, constituaient des emplacements scolaires utilisés par des modules scolaires de langue française sont transférés au Conseil de langue française le 1^{er} janvier 1989.

Transfert de biens immeubles

(2) Si un emplacement scolaire utilisé par des modules scolaires de langue française d'un conseil de langue anglaise le 31 janvier 1988 cesse d'être ainsi utilisé le 31 décembre 1988 ou avant, et qu'un second emplacement scolaire est utilisé à sa place, le Conseil de langue française peut exiger que ce second emplacement lui soit transféré, aux termes du paragraphe (1), à la place du premier emplacement.

Idem

(3) Sous réserve du paragraphe (2), si un emplacement scolaire n'était pas utilisé par des modules scolaires de langue française le 31 janvier 1988, mais le devient au plus tard le 31 décembre 1988, l'emplacement scolaire est transféré au Conseil de langue française le 1^{er} janvier 1989.

Idem

(4) Tous les biens meubles d'un conseil de langue anglaise qui étaient utilisés en tout temps entre le 31 janvier 1988 et le

Transfert de biens meubles

31st day of January, 1988 to the 31st day of December, 1988 on a school site that is to be transferred under this section shall be transferred to the French-language Board on the 1st day of January, 1989.

Debts re
transferred
property

(5) The French-language Board shall pay to the relevant English-language board on or before the due date all amounts of principal and interest becoming due upon any outstanding debts in respect of a school site transferred under this section from that English-language board to the French-language Board.

Transfer not
a closing

(6) A transfer of a school site under this section is not a closing of a school.

Agreement

(7) Subsections (1) to (4) are subject to any agreement concerning the transfer of school sites and the personal property on them,

(a) made between the French-language Board and an English-language board; or

(b) made before the 1st day of December, 1988 between two English-language boards and concurred in by a majority of the members of the French-language Education Council of each of them and a majority of the other members of each of them.

Allocation of
school sites

(8) The school sites transferred to the French-language Board by The Ottawa Board of Education or The Carleton Board of Education shall be allocated to the public sector and the school sites transferred to the French-language Board by The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic School Board shall be allocated to the Roman Catholic sector.

Allocation of
personal
property

(9) The personal property transferred to the French-language Board under this section shall be allocated to the sector to which the school site on which it was used is allocated.

Re-allocation
of school
sites

(10) If there is a major shift in enrolment of pupils from one sector to the other, the sectors shall, by resolutions of both of them, re-allocate the school sites transferred to the French-language Board under this section to meet the needs of both sectors consequent upon that shift in enrolment.

Idem

(11) If only one sector resolves that a school site be re-allocated under subsection (10), either sector may require that the matter be resolved under Part XI.

31 décembre 1988 sur un emplacement scolaire qui doit être transféré aux termes du présent article sont transférés au Conseil de langue française le 1^{er} janvier 1989.

(5) Le Conseil de langue française paie au conseil de langue anglaise intéressé, au plus tard à la date d'exigibilité, tous les montants de principal et d'intérêts qui deviennent exigibles sur les dettes impayées à l'égard d'un emplacement scolaire transféré, aux termes du présent article, de ce conseil de langue anglaise au Conseil de langue française.

Dettes
relatives
aux biens
transférés

(6) Le transfert d'un emplacement scolaire aux termes du présent article ne constitue pas la fermeture d'une école.

Le transfert
n'est pas une
fermeture

(7) Les paragraphes (1) à (4) sont assujettis à toute entente concernant le transfert d'emplacements scolaires et de biens meubles qui s'y trouvent, selon le cas :

Entente

- a) conclue entre le Conseil de langue française et un conseil de langue anglaise;
- b) conclue avant le 1^{er} décembre 1988 entre deux conseils de langue anglaise et à laquelle souscrivent la majorité des membres du conseil de l'enseignement en langue française de chacun de ces conseils et la majorité des autres membres de chacun d'eux.

(8) Les emplacements scolaires transférés au Conseil de langue française par le Conseil de l'éducation d'Ottawa et le Conseil de l'éducation de Carleton sont attribués à la section publique, et les emplacements scolaires transférés au Conseil de langue française par le Conseil des écoles séparées catholiques d'Ottawa et le Conseil des écoles séparées catholiques de Carleton sont attribués à la section catholique.

Attribution
des
emplacements
scolaires

(9) Les biens meubles transférés au Conseil de langue française aux termes du présent article sont attribués à la section à laquelle l'emplacement scolaire où ils sont utilisés est attribué.

Attribution
des biens
meubles

(10) S'il se produit un déplacement important de l'effectif d'une section à l'autre, les sections, par voie de résolution des deux, procèdent à une nouvelle attribution des emplacements scolaires transférés au Conseil de langue française aux termes du présent article afin de répondre aux besoins des deux sections en conséquence de ce déplacement de l'effectif.

Nouvelle attribution
des emplacements
scolaires

(11) Si une seule des sections décide, par voie de résolution, de procéder à une nouvelle attribution d'un emplacement scolaire aux termes du paragraphe (10), l'une ou l'autre des sections peut exiger que la question soit résolue aux termes de la partie XI.

Idem

Transfer of
other assets
required

60.—(1) On or before the 31st day of August, 1989, each English-language board shall transfer to the French-language Board assets and reserves in addition to those transferred under section 59.

Equitable
contribution

(2) The assets and reserves to be transferred under this section by an English-language board shall represent an equitable contribution of that English-language board to the French-language Board.

Negotiations

(3) Forthwith after the 30th day of April, 1988, the members of each English-language board who are members of its French-language Education Council shall enter into negotiations with the other members of that board to choose the board's assets and reserves to be transferred to the French-language Board under this section.

Resolution

(4) On or before the 31st day of August, 1988, each English-language board shall by resolution confirm its choice of the assets and reserves it intends to transfer to the French-language Board under this section.

Idem

(5) An English-language board shall not adopt a resolution under this section unless a majority of its members who are members of its French-language Education Council and a majority of its other members agree to it.

If no
resolution

(6) If an English-language board does not adopt a resolution in the time provided by subsection (4), the choice of the assets and reserves to be transferred under this section shall be referred to the Commission as a dispute under Part XI and that Part shall apply with necessary modifications as if the dispute between the members of the French-language Education Council and the other members of the English-language board were a dispute between the French-language Board and an English-language board.

Parties

(7) The members of an English-language board who are members of its French-language Education Council and the other members of the board shall be deemed to be the two parties to a dispute under subsection (6).

Allocation of
assets

(8) The assets and reserves transferred to the French-language Board under this section shall be allocated to,

- (a) the public sector if they are transferred by The Ottawa Board of Education or The Carleton Board of Education;

60 (1) Au plus tard le 31 août 1989, chaque conseil de langue anglaise transfère au Conseil de langue française des biens et des réserves en plus de ceux qu'il transfère aux termes de l'article 59.

Transfert
d'autres biens

(2) Les biens et les réserves que transfère un conseil de langue anglaise aux termes du présent article constituent une contribution équitable de sa part au Conseil de langue française.

Contribution
équitable

(3) Immédiatement après le 30 avril 1988, les membres de chaque conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise entament des négociations avec les autres membres de leur conseil de langue anglaise afin de choisir les biens et les réserves du conseil qui seront transférés au Conseil de langue française aux termes du présent article.

Négociations

(4) Au plus tard le 31 août 1988, chaque conseil de langue anglaise confirme, par voie de résolution, le choix des biens et des réserves qu'il a l'intention de transférer au Conseil de langue française aux termes du présent article.

Résolution

(5) Un conseil de langue anglaise n'adopte une résolution prévue par le présent article que si la majorité de ses membres qui sont membres de son conseil de l'enseignement en langue française et la majorité de ses autres membres y consentent.

Idem

(6) Si un conseil de langue anglaise n'adopte pas de résolution au plus tard à la date prévue au paragraphe (4), le choix des biens et des réserves qui seront transférés aux termes du présent article est renvoyé à la Commission comme un conflit visé à la partie XI, et cette partie s'applique, avec les adaptations nécessaires, comme si le conflit entre les membres du conseil de l'enseignement en langue française et les autres membres du conseil de langue anglaise était un conflit entre le Conseil de langue française et un conseil de langue anglaise.

Défaut de
résolution

(7) Les membres d'un conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise et les autres membres du conseil de langue anglaise sont réputés les deux parties au conflit mentionné au paragraphe (6).

Parties

(8) Les biens et les réserves transférés au Conseil de langue française en vertu du présent article sont attribués :

Attribution
des biens

- a) à la section publique s'ils sont transférés par le Conseil de l'éducation d'Ottawa ou le Conseil de l'éducation de Carleton;

- (b) the Roman Catholic sector if they are transferred by The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board.

If full board
not satisfied

(9) If on or before the 31st day of December, 1988 a sector determines by resolution that the assets and reserves of an English-language board chosen for transfer to that sector do not represent an equitable contribution, it shall refer the choice of assets and reserves to the Commission as a dispute under Part XI.

Parties

(10) The sector and the relevant English-language board shall be deemed to be the parties to a dispute under subsection (9).

Full board to
determine
needs

(11) The full board shall determine what assets it needs in order to exercise its jurisdiction under this Act.

Proportion

(12) Each sector shall allocate a portion of the assets allocated to it under this section to the full board to meet its needs.

Idem

(13) The value of the assets allocated by a sector shall be the same proportion of the value allocated by both sectors that the average daily enrolment of pupils in the schools of the relevant sector bears to the average daily enrolment of pupils in all of the schools of the French-language Board.

Agreement

(14) Each sector shall by agreement with the full board determine which of the assets allocated to it under subsection (8) are to be re-allocated to the full board and shall re-allocate those assets.

PART XIII

TRANSFER OF EMPLOYEES TO FRENCH-LANGUAGE BOARD

Definitions

61. In this Part,

"employé"

R.S.O. 1980,
c. 228

"employee" means a teacher or other employee and includes an employee as defined in the *Labour Relations Act* but does not include the director of education, the secretary or the treasurer of the board;

"ancienneté"

"seniority", in respect of a transferred employee, means,

- (a) seniority as agreed upon between the English-language board that employed the transferred employee and the organization that entered into a

- b) à la section catholique s'ils sont transférés par le Conseil des écoles séparées catholiques d'Ottawa ou par le Conseil des écoles séparées catholiques de Carleton.

(9) Si, au plus tard le 31 décembre 1988, une section établit par voie de résolution que les biens et les réserves d'un conseil de langue anglaise qui ont été choisis pour le transfert à cette section ne représentent pas une contribution équitable, elle renvoie le choix des biens et des réserves à la Commission comme un conflit visé à la partie XI.

Cas où le conseil plénier n'est pas satisfait

(10) La section intéressée et le conseil de langue anglaise intéressé sont réputés les parties au conflit visé au paragraphe (9).

Parties

(11) Le conseil plénier décide des biens dont il a besoin pour exercer sa compétence en vertu de la présente loi.

Le conseil plénier établit les besoins

(12) Chaque section attribue une partie des biens qui lui sont attribués en vertu de la loi au conseil plénier pour répondre aux besoins de celui-ci.

Proportion

(13) Le rapport entre la valeur des biens attribués par une section et la valeur attribuée par les deux sections est le même que celui qui existe entre l'effectif quotidien moyen dans les écoles de la section intéressée et l'effectif quotidien moyen dans toutes les écoles du Conseil de langue française.

Idem

(14) Chaque section choisit, au moyen d'une entente avec le conseil plénier, lesquels des biens qui lui sont attribués en vertu du paragraphe (8) doivent être attribués de nouveau au conseil plénier, et attribue de nouveau ces biens.

Entente

PARTIE XIII

MUTATION D'EMPLOYÉS AU CONSEIL DE LANGUE FRANÇAISE

61 Les définitions qui suivent s'appliquent à la présente partie.

Définitions

«ancienneté» S'entend de ce qui suit, en ce qui concerne un employé muté :

«seniority»

- a) soit l'ancienneté dont ont convenu entre eux le conseil de langue anglaise qui employait l'employé muté et l'organisation qui a conclu une convention collective avec le conseil de langue anglaise à l'égard de l'employé muté;

collective agreement with the English-language board in respect of the transferred employees, or

- (b) if there is no collective agreement, seniority as determined in accordance with the policy of the English-language board;

“employé
muté”

“transferred employee” means an employee of an English-language board who is transferred to the French-language Board under this Part.

Assignment
of services

62.—(1) Each English-language board shall assign to the French-language Board the services in respect of French-language instructional units of each of its employees who during the period from the 1st day of September, 1988 to the 31st day of December, 1988 is assigned or recruited to provide services in or on behalf of French-language instructional units.

Period of
assignment

(2) The services of each employee shall be assigned for the period beginning from the 1st day of January, 1989 and ending on the earlier of the 31st day of August, 1989 or the date agreed upon by the French-language Board and the relevant English-language board.

Fee for
services

(3) The French-language Board shall pay to the relevant English-language board an amount agreed upon by both boards for the services provided under this section.

Definition
“employé
désigné”

63.—(1) In this section, “designated employee” means an employee of an English-language board who on the 1st day of December, 1988,

- (a) is assigned or recruited by that board exclusively for work in or on behalf of French-language instructional units; or
- (b) being employed in the manner described in clause (a), is on authorized leave from that work or temporarily assigned to other work.

Notice to
designated
employees

(2) On or before the 15th day of December, 1988, each English-language board shall notify each of its designated employees in writing that he or she will be transferred to the French-language Board effective the 1st day of September, 1989.

Idem

(3) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of February, 1989.

- b) soit, s'il n'y a pas de convention collective, l'ancienneté telle qu'elle est établie par la politique du conseil de langue anglaise.

«employé» S'entend d'un enseignant ou d'un autre employé, y compris un employé au sens de la *Loi sur les relations de travail*. Sont toutefois exclus le directeur de l'éducation, le secrétaire et le trésorier du conseil.

«employee»
L.R.O. 1980,
chap. 228

«employé muté» Employé d'un conseil de langue anglaise qui est muté au Conseil de langue française aux termes de la présente partie.

«transferred
employee»

62 (1) Chaque conseil de langue anglaise assigne au Conseil de langue française les services à l'égard des modules scolaires de langue française de chacun de ses employés qui, pendant la période allant du 1^{er} septembre 1988 au 31 décembre 1988, est affecté ou recruté pour fournir des services dans les modules scolaires de langue française ou pour leur compte.

Assignment
de services

(2) Les services de chaque employé sont assignés pour la période commençant le 1^{er} janvier 1989 et se terminant soit le 31 août 1989, soit à la date convenue par le Conseil de langue française et le conseil de langue anglaise intéressé, selon celle de ces deux dates qui survient en premier lieu.

Période
d'assignation

(3) Le Conseil de langue française paie au conseil de langue anglaise intéressé une somme convenue par les deux conseils pour les services fournis aux termes du présent article.

Paiement des
services

63 (1) Dans le présent article, «employé désigné» s'entend d'un employé d'un conseil de langue anglaise qui, le 1^{er} décembre 1988, selon le cas :

Définition
«designated
employee»

- a) est affecté ou recruté par ce conseil pour travailler exclusivement dans les modules scolaires de langue française ou pour leur compte;
- b) tout en étant employé de la façon décrite à l'alinéa a), est en congé autorisé ou temporairement affecté à d'autres tâches.

(2) Au plus tard le 15 décembre 1988, chaque conseil de langue anglaise avise par écrit chacun de ses employés désignés qu'il sera muté au Conseil de langue française à compter du 1^{er} septembre 1989.

Avis aux
employés dési-
gnés

(3) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1^{er} février 1989.

Idem

Notice of
positions
available

(4) Forthwith after the 1st day of February, 1989, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

Applications
invited

(5) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the designated employees who objected to their transfer.

Seniority

(6) The English-language boards shall choose the other employees who are to be transferred in the place of objecting designated employees on the basis of seniority.

Replacement
deemed to
be designated
employee

(7) If another employee who is qualified to be transferred to the French-language Board in the place of a designated employee applies for a position, the other employee shall be deemed to be a designated employee and the employee who objected shall be deemed not to be a designated employee.

Notice of
transfer

(8) Forthwith after the 15th day of May, 1989, each English-language board shall notify all of its designated employees in writing that they will be transferred to the French-language Board effective the 1st day of September, 1989.

Responsi-
bility for
contracts

(9) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee who is transferred under this section is transferred to and assumed by the French-language Board effective the 1st day of September, 1989.

Similar
employment

(10) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Collective
agreement

(11) Subsections (2) to (7) are subject to any applicable collective agreement.

Determine
number of
employees

64.—(1) Each English-language board shall determine the number of its employees other than those designated under section 63 whose services will not be required by it consequent upon the formation of the French-language Board.

Determine
number of
positions

(2) The French-language Board shall determine the number of positions it will need to fill consequent upon its formation.

(4) Immédiatement après le 1^{er} février 1989, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines.

Avis des
postes
disponibles

(5) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés désignés qui se sont opposés à leur mutation, et possèdent les qualités requises.

Appel de
demandes

(6) Les conseils de langue anglaise choisissent en fonction de l'ancienneté les autres employés qui seront mutés à la place des employés désignés qui s'opposent à leur mutation.

Ancienneté

(7) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place d'un employé désigné fait une demande d'emploi, l'autre employé est réputé un employé désigné et l'employé qui s'est opposé est réputé ne pas être un employé désigné.

Remplaçant
réputé un
employé
désigné

(8) Immédiatement après le 15 mai 1989, chaque conseil de langue anglaise avise par écrit tous ses employés désignés qu'ils seront mutés au Conseil de langue française à compter du 1^{er} septembre 1989.

Avis de
mutation

(9) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé muté en vertu du présent article est transféré au Conseil de langue française à compter du 1^{er} septembre 1989, et ce conseil l'assume.

Responsabilité
des contrats

(10) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation.

Emploi
semblable

(11) Les paragraphes (2) à (7) sont assujettis à toute convention collective applicable.

Convention
collective

64 (1) Chaque conseil de langue anglaise décide du nombre de ses employés, autres que ceux qui sont désignés aux termes de l'article 63, dont il ne nécessitera pas les services par suite de la formation du Conseil de langue française.

Nombre
d'employés

(2) Le Conseil de langue française décide du nombre de postes qu'il devra combler par suite de sa formation.

Nombre de
postes

Select
employees
for transfer

(3) The English-language boards and the French-language Board shall select the employees of the English-language boards who are to be transferred to the French-language Board to fill the positions referred to in subsection (2).

Selection by
agreements

(4) The selections under subsection (3) shall be made by agreements between the public sector and The Ottawa Board of Education, the public sector and The Carleton Board of Education, the Roman Catholic sector and The Ottawa Roman Catholic Separate School Board and the Roman Catholic sector and The Carleton Roman Catholic Separate School Board.

Agreements
may be
combined

(5) Either sector, by written notice to the two English-language boards with which it is to make agreements under subsection (4), may choose to negotiate one agreement with both of them rather than separate agreements with each of them.

Contents of
agreements

(6) The agreements shall provide for,

- (a) the exchange of enrolment and other data among the boards so as to enable them to make the appropriate selections;
- (b) methods for encouraging voluntary transfers of employees to positions with the French-language Board; and
- (c) a right of first refusal, on the basis of seniority, for selected persons with respect to positions that become vacant in their English-language board.

Idem

(7) The agreements may contain provisions in addition to those required by subsection (6), including provisions to encourage the secondment and assignment of services of teachers and supervisory officers of the English-language board to positions with the French-language Board.

Collective
agreements

(8) No agreement under subsection (4) renders inoperative any provision in a collective agreement unless the parties to the collective agreement agree in writing to an amendment to it.

Yearly
selections

(9) The determinations and selection shall be made in 1989, 1990 and 1991, not later than the last day of February in each year.

Notice to
selected
employees

(10) On or before the 1st day of March in 1989, 1990 and 1991, each English-language board shall notify in writing each of its employees who have been selected for transfer in the

(3) Les conseils de langue anglaise et le Conseil de langue française choisissent les employés des conseils de langue anglaise qui doivent être mutés au Conseil de langue française pour combler les postes visés au paragraphe (2).

Choix des employés devant être mutés

(4) Les choix prévus au paragraphe (3) sont faits au moyen d'ententes entre la section publique et le Conseil de l'éducation d'Ottawa, la section publique et le Conseil de l'éducation de Carleton, la section catholique et le Conseil des écoles séparées catholiques d'Ottawa, et la section catholique et le Conseil des écoles séparées catholiques de Carleton.

Choix au moyen d'une entente

(5) L'une ou l'autre des sections peut, au moyen d'un avis écrit remis aux deux conseils de langue anglaise avec lesquels elle conclut des ententes aux termes du paragraphe (4), choisir de négocier une seule entente avec les deux conseils plutôt qu'une entente distincte avec chacun d'eux.

Les ententes peuvent être jointes

(6) Les ententes prévoient ce qui suit :

Contenu des ententes

- a) l'échange de données sur l'effectif et d'autres sujets entre les conseils de façon à leur permettre de faire les choix appropriés;
- b) des méthodes visant à encourager les employés à accepter volontairement des mutations à des postes au Conseil de langue française;
- c) un droit de premier refus, en fonction de l'ancienneté, pour les personnes choisies en ce qui concerne les postes qui deviennent vacants dans leur conseil de langue anglaise.

(7) Les ententes peuvent comprendre, outre les dispositions exigées par le paragraphe (6), des dispositions visant notamment à encourager les détachements et l'assignation des services d'enseignants et d'agents de supervision des conseils de langue anglaise à des postes au Conseil de langue française.

Idem

(8) L'entente prévue au paragraphe (4) ne rend inopérante aucune disposition d'une convention collective, à moins que les parties à la convention collective ne conviennent, par écrit, de modifier la convention collective.

Conventions collectives

(9) Les décisions et le choix sont faits en 1989, 1990 et 1991, au plus tard le dernier jour de février de chaque année.

Choix annuels

(10) Au plus tard le 1^{er} mars en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit chacun de ses employés qui ont été choisis pour la mutation au cours de

Avis aux employés choisis

relevant year that he or she will be transferred to the French-language Board effective the 1st day of September next following.

Idem

(11) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of April in that year.

Notice of
positions
available

(12) Forthwith after the 1st day of April in 1989, 1990 and 1991, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

Applications
invited

(13) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the selected employees who objected to their transfer.

Replacement
deemed to
be selected

(14) If another employee who is qualified to be transferred to the French-language Board in the place of the selected employee applies for a position, the other employee shall be deemed to be so selected and the employee who objected shall be deemed not to be so selected.

Notice of
transfer

(15) Forthwith after the 15th day of May in 1989, 1990 and 1991, each English-language board shall give written notice to all of its employees who are selected for transfer in the relevant year that they will be transferred to the French-language Board effective the 1st day of September in that year.

Responsi-
bility for
contracts

(16) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee selected under subsection (3) or (14) is transferred to and assumed by the French-language Board effective the 1st day of September next following the date upon which the agreement is reached or such earlier date as all of the boards may agree upon.

Similar
employment

(17) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Seniority

(18) Subject to any collective agreement in effect, each English-language board shall determine the persons who are to be selected for transfer for any given position under subsection (3) or (14) on the basis of seniority.

l'année en question qu'il sera muté au Conseil de langue française à compter du 1^{er} septembre suivant.

(11) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1^{er} avril de cette année.

Idem

(12) Immédiatement après le 1^{er} avril en 1989, 1990 et 1991, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines.

Avis des
postes
disponibles

(13) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés choisis qui se sont opposés à leur mutation, et possèdent les qualités requises.

Appel de
demandes

(14) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place de l'employé choisi fait une demande d'emploi, l'autre employé est réputé avoir été choisi et l'employé qui s'est opposé est réputé ne pas l'avoir été.

Remplaçant
réputé choisi

(15) Immédiatement après le 15 mai en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit tous ses employés choisis pour la mutation au cours de l'année en question qu'ils seront mutés au Conseil de langue française à compter du 1^{er} septembre de cette année.

Avis de
mutation

(16) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé choisi en vertu du paragraphe (3) ou (14) est transféré au Conseil de langue française et ce conseil l'assume, à compter du 1^{er} septembre qui suit la date de l'entente ou d'une date antérieure dont ont convenu tous les conseils.

Responsabilité
des contrats

(17) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation.

Emploi
semblable

(18) Sous réserve des conventions collectives en vigueur, chaque conseil de langue anglaise décide en fonction de l'ancienneté des personnes qui sont choisies pour la mutation à des postes donnés aux termes du paragraphe (3) ou (14).

Ancienneté

Priority to
employees of
English-
language
boards

(19) In 1989, 1990 and 1991, the French-language Board shall not hire a person who is not an employee of an English-language board to fill a position required to be filled under subsection (2) if there is an employee of an English-language board whose services are no longer required under subsection (1) and who is qualified and available to fill the position.

Collective
agreement

(20) Subsections (10) to (14) are subject to any applicable collective agreement.

Identify
employees
for whom
there is no
position

65.—(1) The agreements made in 1989, 1990 and 1991 under subsection 64 (4) shall identify the employees of each English-language board for whom there is no position on the English-language board or the French-language Board consequent upon the formation of the French-language Board.

Entitled to
training
assistance

(2) An employee described in subsection (1) is entitled to receive training assistance comparable to the training assistance prescribed for a designated person under subsection 136-1 (9) of the *Education Act*.

R.S.O. 1980,
c. 129

Maintain in
employ

(3) The relevant sector or the relevant English-language board shall maintain an employee described in subsection (1) in its employ, provide the training assistance to which the employee is entitled and offer the employee employment in a position appropriate to the employee's previous or newly acquired qualifications.

Agreement

(4) The agreements under subsection 64 (4) shall provide for an equitable sharing of the responsibility under subsection (3).

Idem

(5) In determining what is an equitable sharing of responsibility, the boards shall consider for each category of employees within each English-language board all of the relevant circumstances including,

- (a) the number of employees who have been transferred to the French-language Board under sections 63 and 64;
- (b) the number of employees described in subsection (1);
- (c) the total number of employees of the English-language board; and

(19) En 1989, 1990 et 1991, le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé d'un conseil de langue anglaise pour combler un poste qui doit être comblé aux termes du paragraphe (2) s'il y a un employé d'un conseil de langue anglaise dont les services ne sont plus nécessaires aux termes du paragraphe (1) qui est disponible et possède les qualités requises pour assumer ce poste.

Priorité accordée aux employés des conseils de langue anglaise

(20) Les paragraphes (10) à (14) sont assujettis à toute convention collective applicable.

Convention collective

65 (1) Les ententes conclues en 1989, 1990 et 1991 aux termes du paragraphe 64 (4) énoncent les noms des employés de chaque conseil de langue anglaise pour lesquels il n'y a de poste ni au conseil de langue anglaise ni au Conseil de langue française par suite de la formation du Conseil de langue française.

Noms des employés sans poste

(2) Les employés visés au paragraphe (1) ont le droit de recevoir une aide en matière de formation semblable à l'aide prescrite pour une personne désignée en vertu du paragraphe 136-1 (9) de la *Loi sur l'éducation*.

Aide en matière de formation

L.R.O. 1980, chap. 129

(3) La section intéressée ou le conseil de langue anglaise intéressé garde l'employé visé au paragraphe (1) à son service, lui fournit l'aide en matière de formation à laquelle il a droit et lui offre un poste qui correspond à sa formation préalable ou à sa formation nouvellement acquise.

Maintien en poste

(4) Les ententes visées au paragraphe 64 (4) prévoient un partage équitable de la responsabilité visée au paragraphe (3).

Entente

(5) Pour déterminer ce qui constitue un partage équitable de la responsabilité, les conseils tiennent compte, pour chaque catégorie d'employés dans chaque conseil de langue anglaise, de toutes les circonstances pertinentes, y compris les éléments suivants :

Idem

- a) le nombre d'employés qui ont été mutés au Conseil de langue française en vertu des articles 63 et 64;
- b) le nombre d'employés visés au paragraphe (1);
- c) le nombre total d'employés du conseil de langue anglaise;

- (d) the percentage of pupils who were pupils of that English-language board and have transferred to the French-language Board.

Idem

(6) For the purpose of subsection (5), the categories of employees are supervisory officers, teachers, secretaries, maintenance workers, administrative assistants and other employees.

Responsible
for contracts

(7) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee for whom the French-language Board is responsible under this section is transferred to and assumed by the French-language Board effective the 1st day of September next following the date upon which the agreement providing for that responsibility is reached or such earlier date as the parties to the agreement may agree upon.

Priority of
identified
employees

(8) In 1989, 1990 and 1991, an English-language board shall not hire a person other than an employee identified under subsection (1) to fill a position unless there is no such employee who is qualified to fill the position and whose employment continues to be maintained by any of the English-language boards or the French-language Board.

Jurisdiction
within
French-
language
Board

66.—(1) The teaching contract, employment contract or employment relationship of a transferred employee is under the jurisdiction of,

- (a) the public sector, if the employee is transferred from The Ottawa Board of Education or The Carleton Board of Education;
- (b) the Roman Catholic sector, if the employee is transferred from The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board.

Agreement
for transfer
to full board

(2) Subject to section 75, the public sector and the Roman Catholic sector shall each make an agreement with the full board to transfer specified employees and their contracts or employment relationships from the relevant sector to the full board.

Idem

(3) In making the agreements, the parties shall take into account the needs of the relevant sector, the needs of the full board and the requirements under subsections 63 (10) and 64 (17) that transferred employees be employed in positions substantially similar to their positions before the transfer.

- d) le pourcentage d'élèves qui étaient des élèves de ce conseil de langue anglaise et qui sont passés au Conseil de langue française.

(6) Pour l'application du paragraphe (5), les catégories d'employés sont les agents de supervision, les enseignants, les secrétaires, les préposés à l'entretien, les adjoints administratifs et les autres employés. Idem

(7) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, d'un employé dont le Conseil de langue française est responsable aux termes du présent article est transféré au Conseil de langue française et celui-ci l'assume, à compter du 1^{er} septembre qui suit la date de l'entente qui prévoit cette responsabilité ou d'une date antérieure dont conviennent les parties à l'entente. Responsabilité des contrats

(8) En 1989, 1990 et 1991, un conseil de langue anglaise ne doit pas engager une personne qui n'est pas un employé dont le nom est énoncé en vertu du paragraphe (1) pour combler un poste à moins qu'il n'y ait pas un tel employé qui possède les qualités requises pour assumer ce poste et qui continue d'être employé par un des conseils de langue anglaise ou le Conseil de langue française. Priorité aux employés dont les noms sont énoncés

66 (1) Le contrat d'enseignement, le contrat d'emploi ou la relation de travail d'un employé muté relève : Compétence au sein du Conseil de langue française

- a) de la section publique, si l'employé est muté du Conseil de l'éducation d'Ottawa ou du Conseil de l'éducation de Carleton;
- b) de la section catholique, si l'employé est muté du Conseil des écoles séparées catholiques d'Ottawa ou du Conseil des écoles séparées catholiques de Carleton.

(2) Sous réserve de l'article 75, la section publique et la section catholique concluent chacune avec le conseil plénier une entente en vue de la mutation d'employés spécifiés et de leur contrat ou relation de travail, de la section intéressée au conseil plénier. Entente en vue de la mutation au conseil plénier

(3) Lorsqu'elles concluent les ententes, les parties tiennent compte des besoins de la section intéressée, des besoins du conseil plénier et des exigences prévues aux paragraphes 63 (10) et 64 (17) selon lesquelles les employés mutés doivent occuper des postes essentiellement semblables à ceux qu'ils occupaient avant la mutation. Idem

Seniority

(4) Subject to any collective agreement in effect, the parties shall determine on the basis of seniority which employees are to be transferred to the full board.

Terms of employment

67.—(1) The terms of employment of the following transferred employees shall be determined under the collective agreement or board policy that applied to them immediately before the transfer until the French-language Board reaches a new collective agreement or determines a board policy that applies to them:

1. Transferred employees who are transferred from an English-language board in 1989 and who immediately before the transfer were working in a building of that English-language board that was transferred to the French-language Board.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment applying to them immediately before the transfer are determined under a collective agreement or board policy that still applies to other employees with substantially the same job description who were transferred from the same English-language board in 1989.

Idem

(2) The terms of employment of the following persons shall be determined in the manner provided in subsections (3) and (4):

1. Persons who are not transferred employees and who are recruited or assigned to work for the French-language Board in 1989, 1990 or 1991.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment have been renegotiated by the French-language Board for other transferred employees who,
 - i. were transferred in 1989 from that same English-language board, and
 - ii. have substantially the same job description.
3. Transferred employees who are transferred from an English-language board if,
 - i. immediately before the transfer they were working in a building of that English-language

(4) Sous réserve des conventions collectives en vigueur, les parties choisissent en fonction de l'ancienneté les employés qui sont mutés au conseil plénier. Ancienneté

67 (1) Les conditions d'emploi des employés mutés suivants sont établies aux termes de la convention collective ou de la politique de conseil qui s'appliquait à eux immédiatement avant la mutation, jusqu'à ce que le Conseil de langue française conclue une nouvelle convention collective ou établisse une politique de conseil qui s'applique à eux : Conditions d'emploi

1. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1989 et qui, immédiatement avant la mutation, travaillaient dans un bâtiment du conseil de langue anglaise qui a été transféré au Conseil de langue française.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi qui s'appliquaient à eux immédiatement avant la mutation sont établies aux termes d'une convention collective ou d'une politique de conseil qui s'applique encore à d'autres employés qui ont des descriptions d'emploi essentiellement semblables et qui ont été mutés du même conseil de langue anglaise en 1989.

(2) Les conditions d'emploi des personnes suivantes sont Idem établies de la façon prévue aux paragraphes (3) et (4) :

1. Les personnes qui ne sont pas des employés mutés et qui sont recrutées ou affectées pour travailler pour le Conseil de langue française en 1989, 1990 ou 1991.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi ont été renégociées par le Conseil de langue française pour les autres employés mutés qui :
 - i. d'une part, ont été mutés en 1989 du même conseil de langue anglaise,
 - ii. d'autre part, ont des descriptions d'emploi essentiellement semblables.
3. Les employés mutés qui sont mutés d'un conseil de langue anglaise si :
 - i. d'une part, ils travaillaient, immédiatement avant la mutation, dans un bâtiment de ce

board that was not transferred to the French-language Board, and

- ii. the collective agreement or board policy governing their terms of employment is different from that applying to other transferred employees having substantially the same job description who immediately before their transfer were working in a building of that English-language board that was transferred to the French-language Board.

Idem

(3) The terms of employment of a person described in subsection (2) shall be determined under the collective agreement or board policy applying to transferred employees who,

- (a) were transferred from the same English-language board that transferred the building in which the person is recruited or assigned to work; and
- (b) have substantially the same job description.

Idem

(4) If a person described in subsection (2) is recruited or assigned to work in a building that was not transferred from an English-language board, the French-language Board shall determine which collective agreement or board policy governs that person's terms of employment.

Definition
"ancienneté"

68.—(1) In this section, "seniority", in respect of a position in a school or premises of the French-language Board, means seniority determined on the basis of the seniority list applying to employees transferred from the same English-language board that transferred the school or premises.

Hiring
persons

(2) The French-language Board shall not hire a person who is not a transferred employee if there is a transferred employee who is qualified, willing and available to fill the position.

Idem

(3) Before a sector or the full board fills a position, it shall notify all transferred employees and employees described in section 65 of the position by causing a notice to be posted in all of the schools of both sectors and of the English-language boards and at the head office of the French-language Board and the English-language boards.

conseil de langue anglaise qui n'a pas été transféré au Conseil de langue française,

- ii. d'autre part, la convention collective ou la politique de conseil qui régit leurs conditions d'emploi est différente de celle qui s'applique aux autres employés mutés qui ont des descriptions d'emploi essentiellement semblables et qui, immédiatement avant leur mutation, travaillaient dans un bâtiment de ce conseil de langue anglaise qui a été transféré au Conseil de langue française.

(3) Les conditions d'emploi de la personne décrite au paragraphe (2) sont établies aux termes de la convention collective ou de la politique de conseil s'appliquant aux employés mutés qui : Idem

- a) d'une part, ont été mutés du même conseil de langue anglaise qui a transféré le bâtiment dans lequel la personne recrutée ou affectée est censée travailler;
- b) d'autre part, ont des descriptions d'emploi essentiellement semblables.

(4) Si la personne décrite au paragraphe (2) est recrutée ou affectée pour travailler dans un bâtiment qui n'a pas été transféré du conseil de langue anglaise, le Conseil de langue française choisit quelle convention collective ou politique de conseil régit les conditions d'emploi de cette personne. Idem

68 (1) Dans le présent article, «ancienneté», à l'égard d'un poste dans une école ou des lieux du Conseil de langue française, s'entend de l'ancienneté établie en fonction de la liste d'ancienneté qui s'applique aux employés mutés du conseil de langue anglaise qui a transféré l'école ou les lieux. Définition
«seniority»

(2) Le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé muté s'il y a un employé muté qui est disponible, qui possède les qualités requises pour assumer le poste et qui accepte de le faire. Engagement
de personnes

(3) Avant de combler un poste, la section ou le conseil plénier avise du poste tous les employés mutés et tous les employés décrits à l'article 65 en faisant afficher un avis dans toutes les écoles des deux sections et de tous les conseils de langue anglaise ainsi qu'aux sièges sociaux du Conseil de langue française et des conseils de langue anglaise. Idem

Seniority of
transferred
employees

(4) No person who is not a transferred employee shall have seniority over a transferred employee who is employed by the French-language Board and has substantially the same job description.

Idem

(5) Subsection (4) applies even if the persons' contracts or employment relationships are administered by different sectors or one is administered by a sector and the other by the full board.

Application
of section

(6) This section applies until the 30th day of June, 1999.

Agreement

(7) The French-language Board and the branch affiliate or affiliates representing persons having substantially the same job descriptions may by agreement in writing provide that a provision in this section does not apply to those persons.

Conflict
R.S.O. 1980,
c. 228

(8) This section does not apply if an application is made under section 63 of the *Labour Relations Act* in respect of employees who are deemed to be intermingled under section 75 of this Act.

Compen-
sation rate

69. If the terms of employment of a transferred employee change under section 67 as a result of the transfer, the employee has the right to an annual rate of salary equal to the greater of,

(a) the annual rate of salary that the employee would have been entitled to if he or she had continued to be employed by the English-language board in the first year that he or she is employed by the French-language Board; or

(b) the annual rate of salary of the position in which he or she is employed by the French-language Board.

Sick leave
credits

70.—(1) Sick leave credits standing to a transferred employee's credit with an English-language board shall be transferred to the plan maintained by the French-language Board at the time the person's employment is transferred.

Idem

(2) If the French-language Board does not maintain a plan at the time a transferred employee's contract or employment relationship is transferred, the employee is entitled to receive sick leave benefits from the French-language Board and the French-language Board shall place to the employee's credit the sick leave credits standing to his or her credit in the plan that applied to the employee while employed by the English-language board.

(4) Quiconque n'est pas un employé muté n'a pas plus d'ancienneté qu'un employé muté ayant une description d'emploi essentiellement semblable au Conseil de langue française.

Ancienneté
des employés
mutés

(5) Le paragraphe (4) s'applique même si les contrats ou les relations de travail des personnes sont administrés par des sections différentes ou qu'ils sont administrés les uns par une section et les autres par le conseil plénier.

Idem

(6) Le présent article s'applique jusqu'au 30 juin 1999.

Application
de l'article

(7) Le Conseil de langue française et la ou les sections locales représentant les personnes qui ont des descriptions d'emploi essentiellement semblables peuvent conclure une entente écrite qui prévoit qu'une disposition du présent article ne s'applique pas à ces personnes.

Entente

(8) Le présent article ne s'applique pas si une requête est présentée en vertu de l'article 63 de la *Loi sur les relations de travail* à l'égard d'employés réputés réunis en vertu de l'article 75 de la présente loi.

Incompatibi-
lité
L.R.O. 1980,
chap. 228

69 Si les conditions d'emploi d'un employé muté changent aux termes de l'article 67 par suite de la mutation, l'employé a droit à un taux de salaire annuel égal au plus élevé des montants suivants :

Taux de
rémunération

- a) le taux de salaire annuel auquel l'employé aurait eu droit s'il était resté au service du conseil de langue anglaise pendant la première année où il est au service du Conseil de langue française;
- b) le taux de salaire annuel du poste auquel il est employé au Conseil de langue française.

70 (1) Les crédits pour congés de maladie que l'employé muté a accumulés auprès d'un conseil de langue anglaise sont transférés au régime que maintient le Conseil de langue française au moment de la mutation de l'employé.

Crédits pour
congés de
maladie

(2) Si le Conseil de langue française ne maintient pas de régime au moment où le contrat ou la relation de travail de l'employé muté est transféré, l'employé a droit à des congés de maladie de la part du Conseil de langue française, et celui-ci crédite à l'employé les crédits pour congés de maladie que l'employé a accumulés dans le régime qui s'appliquait à lui lorsqu'il était au service du conseil de langue anglaise.

Idem

Credit for
total accum-
ulation

(3) If the terms of the plan maintained by the French-language Board differ from the terms of the plan that applied to the transferred employee while employed by the English-language board and the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan maintained by the French-language Board, the transferred employee shall be given credit for the number transferred but is not entitled to accumulate further sick leave credits unless the plan maintained by the French-language Board is amended to permit a greater accumulation.

Accumulation
and use of
sick leave
credits

(4) Subject to subsection (3), a transferred employee is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the French-language Board.

Gratuity

71.—(1) Upon termination of employment with the French-language Board, a transferred employee is entitled to payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applied in respect of the person on the last date that the person was employed by the English-language board as though the person had continued to be employed by the English-language board.

Idem

(2) In lieu of the payment under subsection (1), a transferred employee has the right to require payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applies in respect of the person on the last date that the person is employed by the French-language Board.

Idem

(3) The amount of the payment under this section shall be shared by the English-language board and the French-language Board in the ratio that the number of years of the transferred employee's service with each board bears to the total number of years of his or her service with both boards.

Employee
dispute
resolution

72.—(1) A dispute in respect of any matter arising under this Part in the employment relationship between an employee and the French-language Board or an English-language board may be resolved by a grievance arbitration in accordance with this section.

Parties

(2) The parties to the arbitration are the French-language Board or the relevant English-language board, as the case requires, and the person or, if the person is employed under a collective agreement, the organization that represents the person under the collective agreement.

(3) Si les conditions du régime maintenu par le Conseil de langue française diffèrent des conditions du régime qui s'appliquait à l'employé muté lorsqu'il était au service du conseil de langue anglaise et que le nombre de crédits pour congés de maladie qui sont transférés dépasse le nombre total de crédits de ce genre qui peuvent être accumulés en vertu du régime maintenu par le Conseil de langue française, l'employé muté reçoit un crédit pour le nombre ainsi transféré. Il n'a toutefois pas le droit d'accumuler d'autres crédits pour congés de maladie à moins que le régime maintenu par le Conseil de langue française ne soit modifié afin de permettre l'accumulation d'un plus grand nombre de crédits.

Nombre total
de crédits
accumulés

(4) Sous réserve du paragraphe (3), l'employé muté a le droit d'accumuler et d'utiliser des crédits pour congés de maladie conformément au régime que maintient le Conseil de langue française.

Accumulation
et utilisation
des crédits
pour congés
de maladie

71 (1) À la fin de son emploi au Conseil de langue française, l'employé muté a le droit de recevoir un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'appliquait à son égard le dernier jour de son emploi auprès du conseil de langue anglaise, comme si la personne était restée au service du conseil de langue anglaise.

Droit à un
paiement

(2) Au lieu de recevoir le paiement prévu au paragraphe (1), l'employé muté a le droit d'exiger le paiement d'un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'applique à son égard le dernier jour de son emploi au Conseil de langue française.

Idem

(3) Le conseil de langue anglaise et le Conseil de langue française se partagent le montant du paiement prévu au présent article en fonction du rapport qui existe entre le nombre d'années de service de l'employé muté auprès de chaque conseil et le nombre total d'années de service de l'employé muté auprès des deux conseils.

Idem

72 (1) Un conflit à l'égard d'une question soulevée dans le cadre de la présente partie relativement à la relation de travail entre un employé et le Conseil de langue française ou un conseil de langue anglaise peut être résolu par arbitrage des griefs conformément au présent article.

Résolution
des conflits
des employés

(2) Les parties à l'arbitrage sont le Conseil de langue française ou le conseil de langue anglaise intéressé, selon le cas, et la personne ou, si cette dernière est employée aux termes d'une convention collective, l'organisation qui la représente aux termes de la convention collective.

Parties

Grievance
arbitration
R.S.O. 1980,
c. 129

(3) Subsections 136m (3) to (16) and sections 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to a grievance arbitration under subsection (1).

Transfer of
employees
from public
to Roman
Catholic
sector

73.—(1) Sections 136-l, 136-la, 136m, 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to the transfer of employees from the public sector to the Roman Catholic sector, and for the purpose of applying those provisions the Roman Catholic sector shall be deemed to begin to perform the duties of a secondary school board on the 1st day of January, 1989.

Regulations
not to apply

(2) Despite subsection (1), the regulations under section 136-l of the *Education Act* do not apply to the French-language Board and if the sectors fail to reach an agreement under that section the matter shall be referred to the Commission as a dispute under Part XI.

Application
of R.S.O.
1980, c. 464

74.—(1) For the purposes of the *School Boards and Teachers Collective Negotiations Act*,

- (a) the Roman Catholic sector shall be deemed to be a Roman Catholic separate school board in respect of its elementary schools and a secondary school board in respect of its secondary schools;
- (b) the public sector shall be deemed to be a public board in respect of its elementary schools and a secondary school board in respect of its secondary schools.

Idem

(2) For the purposes of that Act, the following branch affiliates shall be deemed to exist:

- 1. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in elementary schools of the public sector.
- 2. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the public sector.

(3) Les paragraphes 136m (3) à (16) et les articles 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'arbitrage des griefs prévu au paragraphe (1).

Arbitrage des griefs
L.R.O. 1980,
chap. 129

73 (1) Les articles 136-l, 136-la, 136m, 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la mutation d'employés de la section publique à la section catholique. Pour l'application de ces dispositions, la section catholique est réputée commencer à s'acquitter des fonctions d'un conseil d'écoles secondaires le 1^{er} janvier 1989.

Mutation
d'employés de
la section
publique à la
section catho-
lique

(2) Malgré le paragraphe (1), les règlements pris en application de l'article 136-l de la *Loi sur l'éducation* ne s'appliquent pas au Conseil de langue française, et si les sections n'arrivent pas à une entente dans le cadre de cet article, la question est renvoyée à la Commission comme un conflit visé à la partie XI.

Certains règle-
ments ne s'ap-
pliquent pas

74 (1) Pour l'application de la *Loi sur la négociation collective entre conseils scolaires et enseignants* :

Champ d'ap-
plication du
chap. 464 des
L.R.O. de
1980

- a) la section catholique est réputée un conseil d'écoles séparées catholiques en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires;
- b) la section publique est réputée un conseil public en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires.

(2) Pour l'application de cette loi, les sections locales suivantes sont réputées exister :

Idem

1. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles élémentaires de la section publique.
2. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section publique.

3. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in elementary schools of the Roman Catholic sector.
4. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the Roman Catholic sector.
5. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the public sector.
6. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the Roman Catholic sector.

Deemed
notice of
desire to
negotiate
R.S.O. 1980,
c. 464

(3) Notice of desire to negotiate shall be deemed to have been given by each of the branch affiliates under section 9 of the *School Boards and Teachers Collective Negotiations Act* on the 1st day of January, 1989.

Transfer of
jurisdiction
not limited

(4) Despite subsection 4 (1) of the *School Boards and Teachers Collective Negotiations Act*, nothing in subsection (1) limits the right of the sectors to transfer their jurisdiction over collective bargaining to the full board under subsection 4 (4) of this Act.

Successor
rights
R.S.O. 1980,
c. 228

75.—(1) For the purpose of section 63 of the *Labour Relations Act*, the employees who are not teachers and who are transferred from the English-language boards to the public sector shall be deemed to have been intermingled, and,

- (a) the Labour Relations Board may exercise the like powers as it may exercise under subsections 63 (6) and (8) of that Act with respect to the sale of a business under that section;

3. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles élémentaires de la section catholique.
4. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section catholique.
5. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section publique.
6. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section catholique.

(3) L'avis d'intention de négociateur est réputé avoir été donné par chacune des sections locales en vertu de l'article 9 de la *Loi sur la négociation collective entre conseils scolaires et enseignants* le 1^{er} janvier 1989.

Avis d'intention de négociateur réputé donné
L.R.O. 1980, chap. 464

(4) Malgré le paragraphe 4 (1) de la *Loi sur la négociation collective entre conseils scolaires et enseignants*, le paragraphe (1) n'a pas pour effet de restreindre le droit des sections de transférer au conseil plénier, en vertu du paragraphe 4 (4) de la présente loi, leur compétence en matière de négociation collective.

Le transfert de compétence n'est pas restreint

75 (1) Pour l'application de l'article 63 de la *Loi sur les relations de travail*, les employés qui ne sont pas des enseignants et qui sont mutés des conseils de langue anglaise à la section publique sont réputés réunis et les dispositions suivantes s'appliquent :

Droits du conseil qui succède
L.R.O. 1980, chap. 228

- a) la Commission des relations de travail peut exercer les mêmes pouvoirs que ceux qu'elle peut exercer en vertu des paragraphes 63 (6) et (8) de cette loi relativement à la vente d'une entreprise aux termes de cet article;

- (b) the public sector has the like rights and obligations as a person to whom a business is sold under that section and who intermingles the employees of one of the person's businesses with those of another of the person's businesses; and
- (c) any trade union or council of trade unions concerned has the like rights and obligations as it would have in the case of the intermingling of employees in two or more businesses under section 63 of that Act.

Idem

(2) Subsection (1) applies with necessary modifications in respect of employees transferred to the Roman Catholic sector or to the full board in the same manner as to employees transferred to the public sector.

Certain sections prevail

(3) Sections 69, 70 and 71 prevail over this section in respect of employees described in this section.

Non-application of certain sections

(4) Sections 67, 68 and 72 do not apply to employees described in this section after an application is made to the Labour Relations Board under this section.

PART XIV

MISCELLANEOUS, TRANSITION AND COMPLEMENTARY AMENDMENTS

Application of Part I of R.S.O. 1980, c. 129

76. Part I of the *Education Act* applies with necessary modifications to the French-language Board.

Visitors, religious exercises and education

77. Sections 50, 51 and 136 and subsection 104 (2) of the *Education Act* apply with necessary modifications to the French-language Board.

Transition, 1988 election

78. Despite section 277i of the *Education Act*, no members shall be elected to a French-language section of an English-language board in the regular election to be held in 1988.

Transitional period

79.—(1) This section applies from the 1st day of December, 1988 to the 31st day of December, 1988.

Non-application of R.S.O. 1980, c. 129, s. 277m

(2) Section 277m of the *Education Act* does not apply to the English-language boards.

- b) la section publique a les mêmes droits et obligations qu'une personne à laquelle est vendue une entreprise aux termes de cet article et qui réunit les employés d'une de ses entreprises avec ceux d'une autre de ses entreprises;
- c) tout syndicat ou conseil de syndicats intéressé a les mêmes droits et obligations qu'il aurait dans le cas d'une réunion d'employés de deux ou plusieurs entreprises aux termes de l'article 63 de cette loi.

(2) Le paragraphe (1) s'applique, avec les adaptations nécessaires, à l'égard des employés mutés à la section catholique ou au conseil plénier de la même façon qu'aux employés mutés à la section publique. Idem

(3) Les articles 69, 70 et 71 l'emportent sur le présent article à l'égard des employés décrits au présent article. Certains articles l'emportent

(4) Les articles 67, 68 et 72 ne s'appliquent pas aux employés décrits au présent article après qu'une requête est présentée à la Commission des relations de travail en vertu du présent article. Non-application de certains articles

PARTIE XIV

DISPOSITIONS DIVERSES, DISPOSITIONS TRANSITOIRES ET MODIFICATIONS CORRÉLATIVES

76 La partie I de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application de la partie I du chap. 129 des L.R.O. de 1980

77 Les articles 50, 51 et 136, et le paragraphe 104 (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Visiteurs, exercices et enseignement religieux

78 Malgré l'article 277i de la *Loi sur l'éducation*, aucun membre n'est élu à la section de langue française d'un conseil de langue anglaise au cours de l'élection ordinaire devant se tenir en 1988. Disposition transitoire, élection de 1988

79 (1) Le présent article s'applique du 1^{er} décembre 1988 au 31 décembre 1988. Période de transition

(2) L'article 277m de la *Loi sur l'éducation* ne s'applique pas aux conseils de langue anglaise. Non-application de l'art. 277m du chap. 129 des L.R.O. de 1980

When
approval
required
R.S.O. 1980,
c. 129

(3) An English-language board shall not do anything that is described in subsection 277m (1) (exclusive jurisdiction of French-language sections) of the *Education Act* or that may affect its French-language instructional units without the approval of,

- (a) the Roman Catholic sector, in the case of The Ottawa Roman Catholic Separate School Board and The Carleton Roman Catholic Separate School Board; or
- (b) the public sector, in the case of The Ottawa Board of Education and The Carleton Board of Education.

80.—(1) Section 1 of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 40, section 3, is further amended by adding thereto the following clause:

- (i) “French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(2) Subsection 13 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 2 and 1982, chapter 56, section 1, is further amended by adding thereto the following paragraphs:

- 16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.

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- 19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters “p”, “s”, “fp” or “fs”, as the case may be.

(3) Section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by adding thereto the following subsection:

(3) Un conseil de langue anglaise ne doit prendre aucune mesure dans un des domaines décrits au paragraphe 277m (1) (compétence exclusive des sections de langue française) de la *Loi sur l'éducation* ni aucune mesure qui pourrait toucher ses modules scolaires de langue française sans l'approbation :

Cas où une approbation est nécessaire

L.R.O. 1980, chap. 129

- a) de la section catholique, dans le cas du Conseil des écoles séparées catholiques d'Ottawa et du Conseil des écoles séparées catholiques de Carleton;
- b) de la section publique, dans le cas du Conseil de l'éducation d'Ottawa et du Conseil de l'éducation de Carleton.

80 (1) L'article 1 de la *Loi sur l'évaluation foncière*, qui constitue le chapitre 31 des Lois refondues de l'Ontario de 1980, tel qu'il est modifié par l'article 3 du chapitre 40 des Lois de l'Ontario de 1982, est modifié de nouveau par adjonction de l'alinéa suivant :

- (i) "French-speaking person" means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.*

(2) Le paragraphe 13 (1) de cette loi, tel qu'il est modifié par l'article 2 du chapitre 47 des Lois de l'Ontario de 1981 et par l'article 1 du chapitre 56 des Lois de l'Ontario de 1982, est modifié de nouveau par adjonction des dispositions suivantes :

- 16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.

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- 19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters "p", "s", "fp" or "fs", as the case may be.*

(3) L'article 15 de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 47 des Lois de l'Ontario de 1981, est modifié par adjonction du paragraphe suivant :

Idem

(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.

(4) Subsection 30 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 2, is amended by striking out “paragraphs 1 to 18 of” in the second line and by striking out clause (b) and inserting in lieu thereof:

(b) such person’s school support; and

(5) Clause 39 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 40, section 3, is amended by striking out “as a public or separate school supporter” in the first and second lines and inserting in lieu thereof “in respect of school support”.

(6) Subsection 50 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 10, is further amended by striking out “as a public or separate school supporter” in the amendment of 1981 and inserting in lieu thereof “in respect of school support”.

81. Subsection 275 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Commission
continued

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.

82.—(1) Paragraph 31 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board”.

(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.* Idem

(4) Le paragraphe 30 (1) de cette loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 58 des Lois de l'Ontario de 1983, est modifié par suppression des mots «paragraphs 1 to 18 of» à la deuxième ligne et par substitution à l'alinéa (b) de ce qui suit :

(b) such person's school support; and*

(5) L'alinéa 39 (1) c) de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 40 des Lois de l'Ontario de 1982, est modifié par substitution, aux mots «as a public or separate school supporter» aux première et deuxième lignes, des mots «in respect of school support».

(6) Le paragraphe 50 (1) de cette loi, tel qu'il est modifié par l'article 10 du chapitre 47 des Lois de l'Ontario de 1981, est modifié de nouveau par substitution, aux mots «as a public or separate school supporter», des mots «in respect of school support».

81 Le paragraphe 275 (1) de la *Loi sur l'éducation*, qui constitue le chapitre 129 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.*

Commission
continued

82 (1) La disposition 31 de l'article 1 de la *Loi sur les élections municipales*, qui constitue le chapitre 308 des Lois refondues de l'Ontario de 1980, est modifiée par adjonction des mots «or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board».

(2) Section 19 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following clause:

- 1988, c. 47 (g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.

(3) Subsection 49 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12 and 1987, chapter 12, section 11, is further amended by adding thereto the following paragraph:

- 1988, c. 47 6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

Commence-
ment

83.—(1) This Act, except sections 15 and 60, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 15 and 60 shall be deemed to have come into force on the 30th day of April, 1988.

Short title

84. The short title of this Act is the *Ottawa-Carleton French-Language School Board Act, 1988*.

(2) L'article 19 de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986, est modifié de nouveau par adjonction de l'alinéa suivant :

- (g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.* 1988, c. 47

(3) Le paragraphe 49 (1) de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986 et par l'article 11 du chapitre 12 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction de la disposition suivante :

- 6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.* 1988, c. 47

83 (1) La présente loi, à l'exception des articles 15 et 60, entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

(2) Les articles 15 et 60 sont réputés être entrés en vigueur le 30 avril 1988. Idem

84 Le titre abrégé de la présente loi est *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton*. Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

